

## COASTAL ZONE MANAGEMENT IMPROVEMENT ACT OF 1980

---

MAY 16, 1980.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. MURPHY of New York, from the Committee on Merchant Marine and Fisheries, submitted the following

### REPORT

[To accompany H.R. 6979]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 6979) to improve coastal management in the United States, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

That this Act may be cited as the "Coastal Zone Management Improvement Act of 1980".

#### SEC. 2. AMENDMENT TO DECLARATORY OF POLICY.

Section 303 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452) is amended to read as follows:

#### "CONGRESSIONAL DECLARATION OF POLICY

"SEC. 303. The Congress finds and declares that it is the national policy—

"(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

"(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well

as to needs for economic development, which programs should at least provide for—

“(A) the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

“(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas of subsidence and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands,

“(C) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in areas where such development already exists,

“(D) public access to the coasts for recreation purposes,

“(E) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources,

“(F) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies, and

“(G) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking;

“(H) the promotion of activities encouraging the harvesting, utilization, development, and growth of aquatic plants and animals for commercial and recreational use, including but not limited to aquaculture, fishing, shellfish development and harvesting, and pollution control; and

“(3) to encourage the participation and cooperation of the public, state and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title.”.

### SEC. 3. DEFINITIONS.

Section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) is amended—

(1) by redesignating paragraphs (2) through (16) as paragraphs (3) through (17), respectively;

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) the term 'coastal resource of national significance' means any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal State to be of substantial biological or natural storm protective value."; and

(3) by striking out "Guam," in paragraph (4) (as redesignated by paragraph (1) of this section) and inserting in lieu thereof "Guam, the Commonwealth of the Northern Mariana Islands,".

#### SEC. 4. ADMINISTRATIVE GRANTS.

(a) Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary may make grants to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary—

"(1) finds that such program meets the requirements of section 305(b);

"(2) approves such program in accordance with subsections (c), (d), and (e); and

"(3) finds, if such program has been administered with financial assistance under this section for at least one year, that the coastal state will expend an increasing proportion of each grant received under this section (but not more than 30 per centum of the grant unless the state chooses to expend a higher percentage) on activities that will result in significant improvement being made in achieving the coastal management objectives specified in section 303(2) (A) through (H).

For purposes of this subsection, the costs of administering a management program includes costs incurred in the carrying out, in a manner consistent with the procedures and processes specified therein, of projects and other activities (other than those of a kind referred to in clauses (A), (B), or (C) of section 306A(c) (2)) that are necessary or appropriate to the implementation of the management program.";

(2) by striking out the first proviso to subsection (b) and by striking out "further" in the second proviso to such subsection; and

(3) by adding at the end thereof the following new subsection:

"(i) The coastal states are encouraged to provide in their management programs for—

"(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

"(B) specific and enforceable standards to protect such resources.

If the Secretary determines that a coastal state has failed to make satisfactory progress in the activities described in

this subsection by September 30, 1984, the Secretary shall not make any grants to such state provided under section 306A after such date”.

(b) The amendments made by subsection (a) (1) and (2) of this section apply with respect to grants made after September 30, 1980, under section 306 of the Coastal Zone Management Act of 1972 and, within one hundred and eighty days after such date, the Secretary of Commerce shall issue regulations relating to the administration of subsection (a) of such section 306 (as so amended by such subsection (a) (1)).

## **SEC. 5. COASTAL RESOURCE IMPROVEMENT PROGRAM.**

The Coastal Zone Management Act of 1972 is further amended by adding immediately after section 306 the following new section :

### **“RESOURCE MANAGEMENT IMPROVEMENT GRANTS**

**“SEC. 306A. (a) For purposes of this section—**

**“(1) The term ‘eligible coastal state’ means a coastal state that for any fiscal year for which a grant is applied for under this section—**

**“(A) has a management program approved under section 306; and**

**“(B) in the judgement of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (H).**

**“(2) The term ‘urban waterfront and port’ means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.**

**“(b) The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:**

**“(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by section 306(c) (9) because of their conservation, recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance.**

**“(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated under section 305(b) (3) in the State’s management program as areas of particular concern.**

**“(3) The provision of access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 305(b) (7).**

(c) (1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

"(2) Grants made under this section may be used for—

"(A) the acquisition of a fee simple and other interests in land;

"(B) construction projects determined by the Secretary to be consistent with the purposes of this section, including, but not limited to, paths, walkways, roads, fences, bridges, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;

"(C) in the case of grants made for objectives described in subsection (b) (2)—

"(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

"(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of increasing public access and use, and

"(iii) the removal of pilings where such action will provide increased recreational use of urban waterfront areas,

but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

"(D) engineering designs, specifications, and other appropriate reports;

"(E) appropriate transportation systems, including the operating expenditures for such systems; and

"(F) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

"(d) (1) No grant made under this section may exceed an amount equal to 80 per centum of the cost of carrying out the purpose or project for which it was awarded.

"(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

"(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

"(e) With the approval of the Secretary, an eligible coastal state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under

this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

"(f) In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section."

#### **SEC. 6. COASTAL ENERGY IMPACT PROGRAM.**

Section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a) is amended by adding after subsection (c) (2), the following new paragraph:

"(c) (3) (A) The Secretary shall make grants under this paragraph to any coastal state which the Secretary finds is being, or is likely to be, affected by coastal energy activity with respect to the transportation, transfer, or storage of coal.

"(B) Such grants shall be used by such state to plan for and prevent, reduce, or ameliorate the environmental effects of such coastal energy activity.

"(C) The amount of any such grant shall not exceed 80 per centum of the cost of carrying out such planning, prevention, reduction or amelioration.

"(D) Such grants shall be allocated to any such state based on rules and regulations promulgated by the Secretary which shall take into account the amount of coal transshipped within the ports of such state; the number of on-loading, off-loading, transfer, and other necessary facilities related to coal transportation or storage built or expanded in such state; the number of miles of shoreline affected by such transportation or storage; and such other relevant factors deemed appropriate by the Secretary."

#### **SEC. 7. INTERSTATE COASTAL ZONE MANAGEMENT COORDINATION.**

Section 309 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456b) is amended—

(1) by amending paragraph (1) of subsection (b) to read as follows:

"(1) administering coordinated coastal management planning, policies, and programs pursuant to section 306; and";

(2) by striking out "approved" in the last sentence of subsection (b) and inserting in lieu thereof "approval";

(3) by striking out "the Administrator of the Federal Energy Administration," in subsection (c) and inserting in lieu thereof "the Secretary of Energy,";

(4) by amending that part of subsection (d) which precedes paragraph (1) to read as follows:

"(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal management activi-

ties described in subsection (a) and may make grants to assist any group of two or more coastal states to create and maintain a temporary planning and coordinating entity to—";

(5) by striking out "coastal zone" in paragraphs (1) and (2) of subsection (d) and inserting in lieu thereof "coastal management";

(6) by striking out the penultimate sentence in subsection (d); and

(7) by adding at the end thereof the following new subsection:

"(e) The Secretary may permit two or more coastal states to use a portion of the grants made to them under section 306 to carry out the purposes of this section."

#### **SEC. 8. REVIEW OF PERFORMANCE.**

(a) Section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) is amended to read as follows:

##### **"REVIEW OF PERFORMANCE**

"Sec. 312. (a) The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 303(2) (A) through (H), and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

"(b) For the purpose of making the evaluation of a coastal state's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.

"(c) The Secretary shall reduce any financial assistance extended to any coastal state under section 306 (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (H).

"(d) The Secretary shall withdraw approval of the management program of any coastal state, and shall withdraw any financial assistance available to that state under this title as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to, is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under section 306, and refuses to remedy the deviation.

"(e) Management program approval and financial assistance may not be withdrawn under subsection (d), unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d), the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.

"(f) (1) The Secretary shall carry out research on, and offer technical assistance to the coastal States with respect to, those activities, projects, and other relevant matters evaluated under this section that the Secretary considers to offer promise toward improving coastal zone management.

"(2) The Secretary shall undertake a systematic program to obtain current information relating to coastal zone management and to disseminate that information, in useful form, to the coastal States."

(b) Within one hundred and eighty days after the date of the enactment of this Act, the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a) of this section).

#### **SEC. 9. TERMINATION OF RESEARCH AND TECHNICAL ASSISTANCE AND THE COASTAL ZONE MANAGEMENT ADVISORY COMMITTEE.**

Sections 310 and 314 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456c, 1460) are repealed.

#### **SEC. 10. ANNUAL REPORT.**

Section 316 of the Coastal Zone Management Act (16 U.S.C. 1462) is amended—

(1) by amending the section heading to read as follows: "COASTAL ZONE MANAGEMENT REPORT";

(2) by amending subsection (a)—

(A) by amending the matter appearing before clause (1) to read as follows: "(a) The Secretary shall consult with the Congress on a regular basis concerning the administration of this title and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this title during each period of two consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to",

(B) by striking out "or with respect to which grants have been terminated under this title" in clause (4),



(C) by redesignating clauses (5) through (12) as clauses (6) through (13), respectively; and

(D) by inserting immediately after clause (4) the following new clause: "(5) a summary of evaluation findings prepared in accordance with subsection (a) of section 312, and a description of any sanctions imposed under subsections (c) and (d) of this section"; and

(3) by adding at the end thereof the following new subsection:

"(c)(1) The Secretary shall conduct a systematic review of Federal programs, other than this title, that affect coastal resources for purposes of identifying conflicts between (A) the objectives and administration of such programs and (B) the purposes and policies of this title. Not later than one year after the date of the enactment of this subsection, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this title identified as a result of such review. Each such Federal agency shall, after consultation with the Secretary and to the extent consistent with the law establishing the program, issue or amend appropriate regulations to eliminate such conflict in the administration of that program.

"(2) The Secretary shall promptly submit a report to the Congress setting forth all notifications, together with the reasons therefor, made by him to the Federal agencies under paragraph (1). Such report may also include such recommended legislative proposals as the Secretary deems appropriate to resolve existing conflicts among Federal laws that affect the uses of coastal resources."

## **SEC. 12. ESTUARINE SANCTUARIES.**

Section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461) is amended—

(1) by striking out "BEACH ACCESS" in the section heading and inserting in lieu thereof "ISLAND PRESERVATION"; and

(2) by amending paragraph (2) to read as follows:

"(2) acquiring lands to provide for the preservation of islands, or portions thereof."

## **SEC. 12. CONGRESSIONAL VET PROVISIONS.**

(a)(1) The Secretary, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House respectively.

(2) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of 90

calendar days of continuous session, after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time in the same manner and to the same extent as in the case of any other rule of that House.

(2)(A) Any concurrent resolution disapproving a final rule of the Secretary shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Merchant Marine and Fisheries of the House, as the case may be.

(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 75 calendar days of continuous session of the Congress after the referral of such resolution to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Merchant Marine and Fisheries of the House, as the case may be, under subsection (a) (1), it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same final rule of the Secretary), and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same final rule of the Secretary.

(ii) A motion to discharge in the House may be made by presentation in writing to the clerk. The motion may be

called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported to concurrent resolution of disapproval with respect to the same rule). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) (A) When a committee has reported or has been discharged from further consideration of a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the concurrent resolution shall be limited to not more than 10 hours which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Secretary, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c) (1) If a final rule of the Secretary is disapproved by the Congress under subsection (a) (2), then the Secretary may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Secretary in accordance with section 553 of title 5, United States Code, in any case in which the Secretary determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Secretary considers necessary or appropriate.

(2) The Secretary after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a) (1).

(d) Congressional inaction on, or rejection of a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e)(1) The Comptroller General shall prepare a report which examines the review of the Secretary's rules under this section. Such report shall—

(A) list the final rules submitted to the Congress by the Secretary during the period in which this section is in effect;

(B) list the final rules disapproved by the Congress under subsection (a) (2);

(C) specify the number of instances in which the Secretary promulgates a final rule in accordance with subsection (c); and

(D) include an analysis of any impact which the provisions of this section have had upon the decisionmaking and rulemaking processes of the Secretary.

(2) The Comptroller General shall submit the report required in paragraph (1) to the Congress before the end of fiscal year 1982.

(f)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(g)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a) (2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Secretary has submitted a final rule under subsection (a) (1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a) (2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a) (2);

then the Secretary shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a) (2) shall begin on the date of such resubmission.

(h) For purposes of this section:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Secretary of Commerce dealing with the matter of \_\_\_\_\_, which final rule was submitted to the Congress on \_\_\_\_\_." (the blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Secretary pursuant to the Coastal Zone Management Act (U.S.C. 1450 et. seq.)

(i) The provisions of this section shall take effect on the date of the enactment of this Act and shall cease to have any force or effect after September 30, 1988."

### SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

Section 318 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464) is amended—

(1) by amending subsection (a) to read as follows:

"SEC. 318. (a) There are authorized to be appropriated to the Secretary—

"(1) such sums, not to exceed \$50,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 306, to remain available until expended;

"(2) such sums, not to exceed \$35,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 306A, to remain available until expended;

"(3) such sums, not to exceed \$100,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 308(b);

"(4) such sums, not to exceed \$5,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 308(c) (2), to remain available until expended;

"(5) such sums, not to exceed \$25,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may

be necessary for grants under section 308(c) (3), to remain available until expended ;

"(6) such sums, not to exceed \$5,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 309, to remain available until expended ;

"(7) such sums, not to exceed \$10,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 315 to remain available until expended ;

"(8) such sums, not to exceed \$6,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for administrative expenses incident to the administration of this title." ; and

(2) by amending subsection (c) by striking out "section 305, 306, 309, or 310." and inserting in lieu thereof "section 306 or 309."

Amend the title so as to read: "A bill to improve coastal zone management in the United States, and for other purposes."

#### PURPOSE OF LEGISLATION

The Coastal Zone Management Act (CZMA) of 1972 (Public Law 92-583) was enacted to encourage and assist States in developing and implementing management programs to preserve, protect, develop, and where possible, to restore or enhance the resources of our nation's coast by the exercise of planning and control with respect to activities occurring in their coastal zones. The primary purpose of H.R. 6979 is to reaffirm the nation's commitment to the wise use and management of our coastal resources through the coastal zone management program.

In this, the Presidentially endorsed "Year of the Coast", the committee believes that the reauthorization and strengthening of the Coastal Zone Management Act of 1972 is both necessary and appropriate. Moreover, the committee feels that the basic provisions and concepts which were incorporated into the act 8 years ago are as sound today as they were in 1972. The partnerships which have developed between the Federal Government and state and local governments have been responsible for many of the successes in coastal management.

H.R. 6979 provides for the continued authorization of the CZMA for 8 years. The committee expects this action to be a signal, to both participating and nonparticipating States, that the Congress is committed to a continued program which assists the States in managing wisely the valuable resources of our coastal zone. It is hoped that this reaffirmation of the CZMA will be an incentive to those nonparticipating States to join in this voluntary program.

The committee also believes that the amendments provided in H.R. 6979 will refocus the CZMA from the program development phase to

the implementation and enforcement phase of State management efforts. Specifically, amendments to the evaluation section (section 312) of the act provide for more public input and involvement in the implementation and evaluation of individual State programs. Similarly, amendments made to section 303, the national policy section, and to section 306, the administrative grants provision, are intended to focus on improved program implementation. The committee expects that the new requirement with respect to a State expending part of its section 306 grant on activities leading to significant improvements in achieving the national objectives outlined in section 303 will result in improved management programs while, at the same time, serving the national interest.

Additionally, the committee has added a new grant program (new section 306A) to assist States in meeting low-cost construction, land acquisition, and shoreline stabilization costs associated with the designation of areas of preservation and restoration, the revitalization of urban waterfronts and ports, and public access to coastal areas. These new grants are another indication of the committee's recognition that the maturation of the coastal management program has reached a critical stage during which the tools of implementation must be enhanced to encourage substantive results from the processes which States have been developing under section 305. The new section 306A is entitled "Resource Management Improvement Grants" and is one of the most important features of the committee's bill.

Finally, the committee proposes a Federal programs review in section 316 which is intended to encourage a consistent and coherent national coastal policy in the administration of Federal programs. Specifically, H.R. 6979 directs the Secretary of Commerce to conduct a systematic review of all Federal programs which may conflict with the national coastal policies enumerated in section 303 of the CZMA. Within 1 year, the Secretary is directed to notify Federal agencies having jurisdiction over applicable programs of such conflicts and those agencies are directed, subject to the program's statute, to amend their regulations to eliminate such conflicts. The committee feels that this requirement is necessary to assure that Federal agencies will begin to exercise policy coordinative accountability similar to that required of States with respect to coastal resource management. Moreover, the committee believes that this responsibility will be particularly important in serving the national objectives identified in the CZMA in those States which do not have approved management programs.

## SUMMARY OF KEY PROVISIONS OF H.R. 6979

### I. CLARIFICATION OF NATIONAL COASTAL POLICY

Section 303 of the Coastal Zone Management Act of 1972 contains the national policy which Congress declared when it originally passed the act. The committee amended this section for the purposes of adding clarification and specificity, and to refocus the national coastal policy on the implementation of State management programs.

Throughout the many oversight and reauthorization hearings which the Subcommittee on Oceanography conducted during the 96th Con-

gress on the Coastal Zone Management Act, witnesses testified that the policy section needed to be clarified in order to give guidance to the States on the significant coastal needs which warrant full consideration during the implementation of coastal management programs. Consequently, the committee has recommended a series of more specific policies which are intended to assist the States in the implementation and improvement of their management programs. Although the new policies are more specific, the committee believes that these are not a departure from the previous general policies which stand as current law.

Specifically, the committee has expanded significantly the national coastal objectives which States are directed to at least provide for in the development and implementation of their coastal management programs. These are: protection of natural resources; management of coastal development to minimize loss of life and property caused by improper development; priority consideration to coastal dependent uses in the coastal zone; public access to the coasts for recreational purposes; coordinated and simplified procedures to ensure expedited governmental decisionmaking for the management of coastal resources; continuing consultation and coordination with affected Federal agencies; timely and effective notification of and opportunities for public and local government participation in coastal management decisionmaking; and promotion of activities encouraging harvesting, development, and growth of aquatic plants and animals for commercial and recreational use.

The committee bill also consolidates existing policy statements to refocus the national coastal policies toward the implementation of coastal management programs. This reorganized policy encourages the participation and cooperation of the public, State and local governments, and interstate and regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of the Coastal Zone Management Act.

While the committee believes that the clarification of the national policy will assist the States in the implementation of their management programs, it wants to emphasize that these do not represent new program requirements. Moreover, the committee believes that the overall policy expounded in the CZMA of 1972—to preserve, protect, develop and where possible, to restore or enhance the resources of the Nation's coastal zone—continues to be an appropriately balanced policy which encourages the wise use and management of our coastal resources. Finally, the committee wants to reemphasize its belief that the nation can provide the needed protection of our fragile coastal resources while at the same time continuing to expand and develop in those areas suited for development.

## II. CHANGES TO THE ADMINISTRATIVE GRANTS PROVISIONS

The committee recommends two important changes in section 306, the administrative grants provisions, which are intended to insure that the national interests in the coastal zone are represented.

The first change is to the procedures which the Secretary of Commerce must follow before awarding an administrative grant to a



State. Specifically the Secretary must find, prior to awarding a grant, that a coastal state will expend an increasing proportion of each grant received under this section, but not more than 30 per centum of the grant unless the State chooses to expend a higher percentage, on activities that will result in significant improvements being made in achieving the coastal management objectives specified in section 303(2). This change in Section 306(b) has been incorporated to insure that improvements in coastal management result from the implementation of coastal programs. The amendments to section 303 (policies) and section 312 (evaluation) of the act identify clearly the goals and expectations respecting the future of coastal management. The changes to section 306(b) make certain that up to 30 percent of a State's total grant is devoted to management activities leading to significant improvements in these areas of major importance.

The National Oceanic and Atmospheric Administration (NOAA) is already instituting a demonstration effort along these lines. Twenty percent of Federal administrative grants in fiscal year 1979 and fiscal year 1980 have been targeted for selected issues of national concern. This demonstration effort is the model for amending section 306(b) of the act. The benefit of this approach is that funds will be expended to ensure that states follow through on program improvements which are necessary to meet the national coastal management objectives of the Act. Moreover, the committee expects that the States will be able to predict with more certainty the portion and amount of their grants which they will be able to use to implement the processes in their management programs, as well as address State needs which they identify. Clearly, by devoting a portion of the overall administrative grants to improvement in the national objectives and a portion to state initiatives, the overall coastal zone management program can continue to successfully meet national needs as well as states' needs. The committee believes that this balance is proper and necessary in order to promote the wise management of our coastal resources.

The second amendment to section 306 adds a new subsection 306(i), which encourages the States to inventory and designate coastal resources of national significance and establish standards which provide for their protection. This new subsection has been added to the act because the committee believes that there is a national interest in protecting coastal resources that are of national significance. H.R. 6979, as introduced into the House, contained provisions which would have allowed the Secretary of Commerce to intervene, in cases where States did not designate coastal resources of national significance in their management programs, and prescribe standards for Federal activities in those areas. However, the committee believes that this action would ultimately mandate participation in the coastal zone management program, which to this point has been purely voluntary. Consequently, the committee reports a bill which simply encourages States to inventory, designate and protect these nationally important resources. H.R. 6979, as reported, has no provisions for federal intervention in cases where States do not have a federally approved management program. The consensus of the committee is that States should be encouraged to protect coastal resources which are of national significance but not be required to take such actions. The

committee further believes that this encouragement is an appropriate signal to the States that protection of the national interest in these resources is important, with hopes that States will take it upon themselves to protect such interest. Moreover, the committee feels that the CZM program should be given more time to determine whether the national interest is being served before mandating any type of Federal intervention.

### III. COASTAL RESOURCE IMPROVEMENT PROGRAM

The committee has consolidated portions of existing law and expanded slightly the use of those funds in an effort to enhance the implementation of state management programs. This new section 306A, entitled "Resource Management Improvement Grants," allows the Secretary of Commerce to make grants to states for the preservation or restoration of natural resource areas, urban waterfront and port redevelopment and public access to coastal areas. Because two of these initiatives are already contained in the current act, but in different sections, the committee believes that the consolidation and slight expansion of these grant provisions, with a reorientation towards improvements of specific coastal resources, will assist the States in the implementation of the processes contained in their management programs. Moreover, the committee believes that the availability of these limited funds, which do not increase the existing authorization levels, will be an incentive to nonparticipating states to join in the CZM program, as well as an incentive for States with management programs to use them more effectively. Use of these funds is a state prerogative and is intended to assist them to the maximum extent possible in acquiring substantive results from the implementation of their management programs.

Currently the Office of Coastal Zone Management has embarked on a pilot project which has allowed the State of Michigan to use a small amount of their administrative money for low-cost construction projects in areas of preservation or restoration. The results have been outstanding, as Michigan has been able to use boardwalks, wooden fences, and other low-cost construction structures as management tools to provide protection to environmentally sensitive areas and increase public access. The Michigan experience has proven that small structural projects can immensely enhance the effectiveness of a regulatory program. This pilot project is a basis for making changes in the act, so as to provide a small amount of funds for low cost construction grants in areas of preservation or restoration. The committee believes that the recommended changes will assist the States in enhancing the effectiveness of their management programs at a very low cost. The committee believes that the recommended changes will assist the States in enhancing the effectiveness of their management programs at a very low cost. The types of projects envisioned under this program could include such projects as paths or trails designed to channel access to the shoreline through dune structures; signs; exhibits; and other small-scale construction programs which tend to complement a State's CZM program.

The second type of grant available in this section is for urban waterfront and port redevelopment in areas which are already developed.

The committee expects these grants will assist States to provide for more public access and other amenities in urban waterfront areas which have been neglected, but which still have the potential to offer public recreational benefits. These grants could also be used to assist States in devising urban redevelopment plans which could not be funded under any other federal program. For example, a State could design an urban waterfront park with CZM funds, and then obtain funds from other programs to pay for the actual cost of constructing the project. The committee believes that by providing a moderate amount of money targeted at underutilized waterfronts, States will be encouraged to revitalize their waterfront areas, provide increased public access and recreational opportunities, and attract private investment for commercial efforts.

The third and final type of grant available under this section provides money for beach access, similar to provisions which were previously in section 315 of the CZM Act. The committee believes that these types of grants are particularly important as pressures to close off access to many portions of our coast increase. The language in this provision allows a State to obtain less than fee simple, access ways or variances to coastal areas. Recently many new and imaginative ways to obtain public access to public coastal areas, other than outright acquisition, are being discovered and the committee feels that these funds will be particularly useful to States in providing increased areas of access. The committee expects that the very small amount of money made available under this section will return benefits far in excess of the actual dollar amount.

#### IV. COAL TRANSPORTATION IMPACT GRANTS

Oil shortages, changes in national energy policy, and the increased use of low sulfur coal have together been responsible for tremendous increases in the movement and use of coal in this country. This dramatic increase in the amount of coal being moved is and will continue to impact the coastal zones of States particularly those in the Great Lakes region. The committee has responded to the Federal responsibility in this national commitment by amending the coastal energy impact program, to provide funds to States to assist them in ameliorating the impacts associated with increased coal transshipment. Already the shorelines of several Great Lakes States are experiencing coal-related impacts in the form of increased erosion in the connecting waterways, increased port dredging and dredge disposal problems, loss of many acres of valuable coastal wetlands for coal storage and fly ash disposal, displacement of coastal park and recreational boating facilities, and decreased public access to the coast due to coal related activities and facilities.

The committee believes that the national commitment to convert to low sulfur coal from high sulfur coal or imported oil, brings with it a national responsibility to assist the States in meeting their needs associated with the impacts of increased coal transshipment. The committee recognizes a parallel between this new commitment and the national commitment made to accelerate Outer Continental Shelf oil and gas activities, the original impetus for the coastal energy impact program. However, the committee realizes a difference in magnitude and

recommends a more modest authorization level of \$25 million to assist those coastal States affected by increased coal transshipment. It is anticipated that these funds, in conjunction with the funds already available under the coastal energy impact program, will go far in assisting the States to remedy the impacts associated with the increased levels of coal transshipment.

The committee further intends that these grants will not have an effect on the amounts or allotment of OCS formula grants provided under the coastal energy impact program. To ensure this it has been made clear that the allotment or receipt of a coal transshipment grant will in no way reduce, prejudice or preclude an eligible coastal State from receiving its allotment of funds under the OCS formula grants.

#### V. REVIEW OF PERFORMANCE

The coastal zone management program is in an important transitional phase from planning and development to implementation of State management programs. The true test of the effectiveness of the state programs will come in the next several years as States put their management programs into full operation. In view of this, an evaluation system is needed that provides a clear accounting of the accomplishments and shortcomings that emerge from program operations. This period offers great opportunity to objectively review the implementation of State programs and to refine the process contained in the management plans.

The committee recommends a revised evaluation section which includes an assessment of state progress in addressing the significant coastal issues set forth in section 303(2) of the act.

The committee recommends that state performance reviews conducted pursuant to section 312 during each grant period shall include an assessment of state progress in addressing the significant coastal issues set forth in section 303(2) of the act. States not only will be reviewed to determine adherence to the provisions of approved management programs and any grant or cooperative agreement, but also will be held accountable for initiating improvements to meet the major goals described in section 303(2) (A) through (H).

Section 312 now directs the Secretary to reduce financial assistance under this section—but not more than 30 per centum of the total grant—if the Secretary determines that a State is failing to make significant improvements toward achieving the coastal management objectives specified in section 303(2) (A) through (H). This change provides the Secretary with an additional tool in allocating a portion of the federal funds among states on the basis of their willingness to address issues of national significance. Current law only provides the Secretary with authority to terminate financial assistance altogether in instances where States have not fulfilled their obligations to the national interests and objectives in the implementation of their management programs. The proposed change will help insure that Federal moneys supporting coastal management programs are being targeted adequately to addressing critical national problems as well as important State and local concerns. The committee recommends this change with the understanding that the Secretary will only be able to reduce

the total grant amount by a maximum of 30 per centum, in order to guarantee that States will receive sufficient assistance to implement their management programs and attend to special State-identified coastal management issues.

Another significant change which the committee recommends pertains to the process which the Secretary must follow during the State performance review. Specifically, the committee emphasizes the need for involvement of all affected parties, particularly that of the public, during the evaluation of a State management program's performance. The committee realizes the necessity to actively solicit the participation of the general public when evaluating a State's performance. The people who are most directly affected by the decisions made in accordance with State management programs should be the people who are the most directly involved. Public meetings are required, as well as the distribution of the evaluation document which the Federal office complies. The primary objective of this change is to insure that performance reviews are conducted in an open and fair fashion in order to promote effective and constructive evaluations.

The final significant change which the committee recommends involves the process which the Secretary must follow in the event that management program approval is withdrawn. This process promises that a State will be given fair and ample opportunity to remedy any deviation from the management program prior to the withdrawal of program approval. The Secretary is directed to provide opportunity for a public hearing before withdrawal of approval and also to provide the State with a list of the specific actions which need to be taken in order to cancel a withdrawal. These recommended changes will insure that States are given fair opportunity to refute the findings of the Secretary as well as provide safeguards to the States against any arbitrary capricious action by the Secretary.

## VI. FEDERAL PROGRAMS REVIEW

H.R. 6979 contains amendments to section 316 of the act which call for a Federal programs review. This review is similar to the review which the President requested in his August 1979 environmental message. The amendment calls for the Secretary to conduct a systematic review of Federal programs that affect coastal resources and to identify conflicts or problems between the objectives and administration of those programs and the purposes and policies of the Coastal Zone Management Act. The committee believes that this review is a crucial link in a national effort to bring about a coherent and consistent national coastal policy. Because of this importance the committee requires the review to be submitted to Congress with recommendations for legislative changes or remedies. Moreover, H.R. 6979 directs the Federal agencies administering those programs which may conflict with the national coastal policy to revise or amend their regulations or administrative procedures, to the extent consistent with the law establishing such programs, in order to eliminate or minimize such conflicts.

Because there are so many Federal programs which affect the coastal resources of our Nation, and because these programs are not

well-coordinated with one another, the committee recommends these changes with the highest hopes that the Federal Government can begin to accomplish a coastal management scheme which embodies the accountability and discretion similar to that which the States are encouraged to implement under the CZM Act.

#### VII. TWO-HOUSE CONGRESSIONAL DISAPPROVAL PROCEDURE

H.R. 6979 contains provisions for a two-house veto of final regulations promulgated pursuant to this act. These provisions are almost identical to the conference report language of the recently passed, May 1, 1980, Federal Trade Commission Amendments Act. Under this new provision, after 90 calendar days of continuous session, without a concurrent resolution of disapproval passed by both Houses, the final rule becomes effective.

The relevant committees are Merchant Marine and Fisheries in the House of Representatives and Commerce, Science and Transportation in the Senate.

A committee can only be discharged if it has not acted within 75 calendar days of continuous session. A motion to discharge in the Senate requires only one member favoring the concurrent resolution, and in the House, a motion to call up the motion to discharge the committee can only be made with the signatures of one-fifth of the Members of the House.

The provision applies only to final rules promulgated by the Secretary of Commerce pursuant to the Coastal Zone Management Act and this provision takes effect on the date of enactment and will expire along with the authorization of the bill on September 30, 1988.

The committee is abundantly aware of the pressure not to increase the level of Federal spending and consequently recommends a bill which calls for no net increase in authorizations. H.R. 6979 maintains the current level of authorizations for the entire coastal zone management program. Although certain provisions have been deleted, added and the uses of some funds have been changed, there is no net increase in the level of authorization.

The committee believes that the changes recommended in the act, along with an eight year reauthorization, will serve as an incentive to bring all of the states into this voluntary program. Currently several nonparticipating states with large coastal zones are watching Congress for an indication of its commitment to a program which is directed at serving the national interests in the Nation's coastal regions. It is hoped that an 8-year reauthorization will represent a strong signal from Congress, to all the coastal States, of its commitment towards enhancing the wise use and management of the Nation's coastal resources.

#### LEGISLATIVE HISTORY OF THE COASTAL ZONE MANAGEMENT ACT, AND AMENDMENTS

##### INTRODUCTION

During the 1950's and 1960's, national interest in recreation, estuarine protection, land use policy, and ocean resources influenced

development of coastal management legislation. These interests, sometimes unrelated and sometimes reinforcing, each contributed to the emergence of legislative proposals that were melded together to become the Coastal Zone Management Act of 1972.

Each interest had a distinctive theme. The rapid growth in demand for coastal recreational opportunities created a large constituency interested in conditions at the coast, including user facilities and public access. Estuarine protection legislation, introduced in the 1960's, led to the a national examination of the degradation of valuable coastal resources. National land use bills were introduced at the same time as the coastal zone management legislation and provided a forum to debate the roles of the Federal, State and local levels of government in guiding land and resource use. Concern with ocean development and, in particular, the publication of the Stratton Commission report entitled "Our Nation and the Sea", brought together many of the concepts upon which the coastal zone legislation was based. The report, released in 1969, recommended that:

a Coastal Zone Management Act be enacted which will provide policy objectives for the coastal zone and authorize Federal grants-in-aid to facilitate the establishment of State Coastal Zone Authorities empowered to manage the coastal waters and adjacent land.<sup>1</sup>

#### 91ST CONGRESS

Soon after the release of the Stratton Commission report, legislative consideration of the Commission recommendations began. In direct response to the report, Senator Warren G. Magnuson on August 8, 1969, introduced S. 2802, the Coastal Zone Management Act of 1969 and the measure was referred to the Senate Committee on Commerce. Representative George H. Fallon introduced a similar bill in the House of Representatives, H.R. 14145 on November 18, 1969; the bill was referred to the Committee on Public Works. Two other coastal management bills referred to the House Committee on Merchant Marine and Fisheries were H.R. 15099, introduced by Representative Alton A. Lennon on December 4, 1969, and H.R. 16155, introduced by Representative Robert M. Giaimo on February 24, 1970.

Three of these bills—H.R. 15099, H.R. 16155, and S. 2802—assigned the authority for the coastal zone management program to the National Council on Marine Resources and Engineering Development, an Executive advisory group created under the Marine Resources and Engineering Act of 1966, while H.R. 14145 assigned it to the Department of the Interior. These differences reflected the landward or seaward orientation of the individual bills, which were in turn reflected in congressional committee referrals. Those concentrating on water-related problems assigned authority to the National Council and were referred to the House Merchant Marine and Fisheries Committee or the Senate Commerce Committee. Those with a landward focus, assigning authority to the Department of the Interior, were referred to the House Public Works Committee or the Senate

<sup>1</sup> The Commission on Marine Science, Engineering and Resources, "Our Nation and the Sea," (Washington, D.C. 1969), p. 57.

Public Works Committee. The problem of defining coastal zone boundaries aggravated the jurisdictional question. Some thought the coastal zone should be a narrow band along the immediate coast, while others thought it should extend well inland, perhaps to the headwaters of coastal watersheds. With respect to the seaward boundary, there was considerable debate on the potential interaction of State management activities with Federal responsibilities beyond the 3-mile limit.

Management provisions were similar in all the legislative proposals with some bills allowing for program development grants to States of either 50 percent or 66 $\frac{2}{3}$  percent. Most of the measures provided for state coastal zone management authorities because establishing such authorities was seen as instrumental in providing the flexibility the states would require in their individual management programs. Most bills called on the states to define their boundaries of areas to be managed by coastal zone authorities.

Included in some of the proposed legislation were provisions for estuarine sanctuaries—research areas to be set aside to provide an opportunity for scientists to examine ecological relationships within estuaries. This provision was drawn from a recommendation in the "National Estuary Study," a study established by the Estuary Protection Act of 1968 and prepared by the Department of the Interior.

Both Houses held several days of hearings. Problems raised during the deliberations included defining the inland boundary of the coastal zone, comparing the differences between the Federal and State definitions of the coastal zone, articulating the need for flexibility in State program management, and defining the Federal role (including financial support) in coastal management.

The national land use policy bills also received considerable attention during the 91st Congress. Management concepts in these bills incorporated and expended on concepts proposed in coastal zone legislation. The land use legislation identified management of special areas, including coasts. Coastal management was thus to be consumed within national land use legislation, much as the earlier concept of protecting estuarine areas had been enveloped by the broader concept of coastal zone management. Action on the land use bills was impeded by a complex committee structure, while coastal zone management bills proceeded further in the legislative process. However, no final action was taken.

#### 92ND CONGRESS

A number of legislative initiatives were undertaken early in the session by the House of Representatives. Three similar bills were introduced by Representative Alton A. Lennon and referred to the House Committee on Merchant Marine and Fisheries: H.R. 2492 and H.R. 2493 on January 29, 1971 and H.R. 9229 on June 17, 1971. Their inland definition of the coastal zone was somewhat flexible, defining it as lands either strongly influenced or affected by the sea. Of the three, H.R. 2493 and H.R. 9229 had provisions for estuarine sanctuaries, and H.R. 9229 was the first bill to contain provisions for marine sanctuaries—defined as areas of the high seas set aside for preservation because of their conservation, recreation, ecological or esthetic values. The major land use proposal before the House of Representatives was H.R. 4332, introduced by Representative Wayne N. Aspinall on February 17,



1971, which recognized the coastal zone as an area of critical environmental concern. It was to significantly affect the coastal legislation in the House.

S. 582, introduced by Senator Ernest F. Hollings on February 4, 1971, and S. 638, introduced by Senator John Tower on February 8, 1971, were the principal Senate coastal zone management proposals of the 92d Congress. These bills put responsibility for the coastal zone management program in the Department of Commerce's newly organized National Oceanic and Atmospheric Administration (NOAA). Both bills defined the coastal zone as seaward to the outer limits of the territorial sea, an area in which the States had clear authority to act, and inland to the extent that the land was "influenced by the water". The definition of the coastal zone was thus flexible enough to allow for various conditions in each State.

The two early major pieces of land use legislation introduced in the Senate and having strong effects on the composition of the coastal zone legislation were S. 632, introduced by Senator Henry M. Jackson on February 5, 1971, and S. 992, introduced by Senator Robert C. Byrd. S. 992 had a great influence on the coastal zone management legislation, for it provided for cost sharing grants for development and management of State land use programs by the Department of the Interior. Most importantly, S. 992 recognized the coastal zone and estuaries as areas of critical environmental concern and also provided for management grants only if the value of the coastal zone was recognized.

After 3 days of hearings in the first session, the Senate Committee on Commerce considered the coastal zone management bills before it and favorably reported a "clean bill", S. 3507, in the second session on April 19, 1972. The presence of the land use proposals had clearly affected the markup of the new piece of legislation, for the idea of a specific inland definition of the coastal zone, as S. 582 had possessed, had been dropped. Instead, a very flexible and water-oriented definition of the inner boundary of the coastal zone was given: "shorelands whose use had a direct and significant impact upon the coastal water". The flexibility of this definition was to allow for adequate coordination with the proposed land use legislation. Since this was a water-oriented bill, NOAA, already working in the coastal zone, was given authority for the management program. S. 3507 was passed 68 to 0.

In the second session of the 92d Congress, the House Committee on Merchant Marine and Fisheries reported its actions in the form of a new bill, H.R. 14146, on May 5, 1972. The committee had held 8 days of hearings during 1971. H.R. 14146 deliberately left the definition of the landward extent of the coastal zone broad to fit the varied and divergent conditions of the states. It recognized that provisions must be acceptable to any future land use legislation. NOAA, because of its extensive responsibilities in the marine areas, was given the administrative responsibility for the program.

Action on the H.R. 14146 came on August 2, 1972. Among the issues discussed during the debate was whether this was a piecemeal approach, addressing only part of the problem. In addition, the possibility of duplicate land use programs was voiced, along with concern over the Department of Commerce having management responsibility for the program. An amendment was offered and accepted which

moved the responsibility from the Department of Commerce to the Department of the Interior. Thus amended, H.R. 14146 was passed by 376 to 6 with 50 not voting. S. 3507, was then similarly amended and passed by the House in lieu of H.R. 14146. Both Houses insisted on their provisions and conferees were appointed.

The conference report was accepted by both Houses on October 27, 1972. The managers had agreed to adopt the House language as to the seaward extent of the coastal zone, while the definition of the land areas to be included was limited to "those lands which have a direct and significant impact upon the coastal waters", thus reinforcing the water orientation of the legislation. The conferees adopted the Senate provision to designate the Department of Commerce as the responsible agency citing NOAA's capability to assist State and local governments. Provisions were made for future concurrence with the Department of the Interior in the event national land use legislation became law.

The President signed the Coastal Zone Management Act on October 27, 1972, as Public Law 92-583. At that time, he urged the passing of comprehensive land use legislation and the formation of a Department of Natural Resources (DNR) to coordinate Federal resource programs.

#### 93RD CONGRESS

H.R. 16215, the Coastal Zone Management Act Amendments of 1974, became law (Public Law 93-612) on January 2, 1975. These amendments contained no major substantive changes in the act, but did clarify three specific sections. Section 305 was amended to provide for more flexibility in the allocation of administrative grants to coastal states. Section 306 was changed to increase the authorization for state management program development grants, while section 315 was amended to extend the authorizations for estuarine sanctuaries grants.

#### 94TH CONGRESS

The Coastal Zone Management Act Amendments of 1976 (Public Law 94-370) made significant changes in the Act. These amendments were viewed as necessary because many new issues had arisen in the 4 years since 1972. The call for a greater degree of energy self-sufficiency through Project Independence was a response to the 1973 Arab oil embargo. Energy self-sufficiency became an important national goal which could greatly influence environmental conditions along the coasts of the Nation. This influence was expressed through the demand for more offshore oil and gas activity, the desire to site new energy facilities in coastal areas, and the anticipation of rapid deepwater port development.

The Coastal Zone Management Act of 1972 was considered a sound piece of legislation. But, the Act did not provide for the problems that States began to anticipate in conjunction with increased energy-related activities in the coastal zone. In 1975, the Supreme Court, in *United States v. Maine*, determined that the Federal Government had sole jurisdiction over resource development beyond the 3-mile limit. Thus, the States would have no part in any decision concerning development on the Outer Continental Shelf (OCS) nor would the States benefit

from any lease bonuses or royalties. Under these circumstances, efforts to amend the Coastal Zone Management Act of 1972 were initiated.

Several efforts to amend the Coastal Zone Management Act were undertaken early in the 94th Congress in the House of Representatives. H.R. 1776, introduced by Representative Robert E. Bauman on January 23, 1975; H.R. 2928, introduced by Representative Burt L. Talcott on February 5, 1975; and H.R. 3124, introduced by Representative Bauman on February 1, 1975; and H.R. 3481, introduced by Representative Robert A. Roe on February 20, 1975, all sought to amend the Coastal Zone Management Act by establishing some type of off-shore-related funding for coastal States and by providing for interstate coordination. Representative Edwin B. Forsythe introduced three similar bills. H.R. 3637 on February 25, 1975, H.R. 4300 on March 5, 1975, and H.R. 5916 on April 10, 1975, which sought to broaden the definition of energy facilities, provide for State approval of Federal leases, and the establishment of an affected coastal states fund. Representative Gerry Studds introduced H.R. 3807 on February 26, 1975, and H.R. 6255 on April 22, 1975—identical bills providing for coastal impact funds, interstate coordination and research assistance. H.R. 3981, introduced by Representative John M. Murphy on February 27, 1975, and similar to H.R. 4858 introduced by Representative James J. Howard, was the chief coastal zone bill of the House.

Senator Harrison A. Williams introduced, S. 470, on January 28, 1975, to amend the Coastal Zone Management Act by suspending Federal oil and gas leasing until mid-1976. Senator Ernest F. Hollings introduced the principle Senate bill, S. 586 on February 5, 1975. S. 586 proposed a coastal energy facility impact program. S. 826, introduced by Senator Clifford Case on February 25, 1975, also sought to amend the Coastal Zone Management Act of 1972 by expanding the definition of energy facilities, providing for prohibition of leasing activities if states were to disapprove proposed actions and establishing a coastal states fund. This bill was similar to the Forsythe initiatives.

Both the Senate and House held extensive hearings. The House Committee on Merchant Marine and Fisheries, Subcommittee on Oceanography held hearings on bills to amend the Coastal Zone Management Act. Outer Continental Shelf policy issues such as the separation of exploration from development were not addressed in Merchant Marine and Fisheries hearings but were the focus of a newly established House Ad Hoc Select Committee on the Outer Continental Shelf. Representatives from Government, industry, and the private sector voiced their concerns for future impacts from accelerated Outer Continental Shelf oil and gas activities in both House Committees.

The Senate held 5 days of hearings during the spring of 1975. Two issues, the possible impacts from offshore activities and Federal-State relations in Outer Continental Shelf matters, dominated the debate. There was also concern about the distribution of Outer Continental Shelf revenues to coastal States. Other policy issues which were addressed included separating consideration of Outer Continental Shelf exploration from development activities, alternative leasing systems, operating practices for safety and environmental protection, and the handling of industry information by Federal authorities.

House action on its major coastal bill came at the beginning of the Second Session of the 94th Congress. The Committee on Merchant Marine and Fisheries reported H.R. 3981 on March 4, 1976 (H. Rept. 94-878). The report emphasized provisions adding new requirements for State coastal zone programs in both the development phase and the coastal energy activity impact program, and added new provisions on interstate coordination, and on research and training assistance. On March 11, 1976, the House of Representatives passed H.R. 3981 by a vote of 370 to 14. During the course of debate, committee amendments omitting language in the Federal consistency requirements and requiring hearings in cases of disputes were agreed to. The passage of H.R. 3981 was vacated and S. 586, amended to contain the language of the House bill, was passed in lieu.

The Senate committee had reported its bill, S. 586, on July 11, 1975. Its report (S. Rept. 94-277) gave special emphasis to the provisions on Federal consistency, the coastal energy facility impact program, interstate coordination, research and training, and funds to acquire public access to beaches and preserve islands. The Senate considered and passed (73-15) S. 586 on July 16, 1975. Accepted before passage were amendments to clarify and strengthen the OCS-formula grants provision, to allow that any grant made would not be considered a major Federal action under the National Environmental Policy Act, to provide entitlement to grants and loans to States which have experienced net adverse impacts within 3 years prior to the enactment of the bill, to provide for equal representation of State and Federal interests on a Coastal Impact Review Board, to provide that a larger share of the funds derived from production of federally owned minerals be allotted for public facilities and services, and to provide for priority treatment of applicants who suffer impacts resulting from exploration and production of energy facilities.

The conference committee submitted its report (H. Rept. 94-1298/S. Rept. 94-987) on June 24, 1976. The conference substitute followed the House amendment in its definitions of "coastal energy activity", "local government" and "Outer Continental Shelf energy activity". With respect to OCS leases, the conference committee created a new subparagraph (B) in subsection 307(c) (3) to establish consolidated State review of OCS-required licenses and permits contained in exploration and development plans. This amendment removed the need to examine individual leases under the general license and permit consistency section. The change did not alter Federal agency responsibility to provide States with a consistency determination related to OCS decisions which preceded issuance of leases.

The House formula for determining a State's share of the coastal energy impact fund was accepted by the conferees. This key provision of the bill created a new section in the Coastal Zone Management Act (Sec. 308) that provided assistance in the form of grants, loans and loan guarantees to states and localities where impacts from coastal energy activities were anticipated. Such coastal zone impacts from energy-related activities could include the location, construction, expansion or operation of a major energy facility. In addition, House language providing for public access to beaches, preservation of islands, and a national study of the shellfish industry was adopted

The conference report was agreed to by the Senate on June 29, 1976 and by the House on June 30, 1976.

The president signed the Coastal Zone Management Act Amendments into law as Public Law 94-370 on July 26, 1976. In his accompanying statement he urged the Secretary of Commerce to implement expeditiously the provisions of the act and noted that the issues of energy and the environment would be of high priority in the years to come.

#### 95TH CONGRESS

Although the act had been amended to assist States in planning for the possible effects of offshore energy activities and the growth of coastal energy facilities, congressional interest in this issue remained high. The offshore energy development debate had centered on amending the outdated law guiding offshore leasing, the Outer Continental Shelf Lands Act of 1953. This law had been enacted in a period when pressures to lease were less and concerns about the economic and environmental effects had been limited. Issues that had become important since 1953 included: coordination and compensation for injury to users of the OCS other than the oil and gas industry, responsibility and liability for the effects of oil pollution originating with OCS activities, the method of awarding leases to private companies, and the need for mechanisms to involve states and localities in offshore decisions.

In the House, the complexity of the OCS issue and the pressure to accelerate offshore operations around the Nation's coast had previously led, as noted above, to the establishment, on April 22, 1975, of the Ad Hoc Select Committee on the Outer Continental Shelf. The select committee held 22 days of hearings on the principal House bill in the 94th Congress, H.R. 6218.

The Federal-State relations issue was particularly contentious. Many of the onshore areas adjacent to proposed lease areas had no prior experience with OCS. Based on negative events, especially the Santa Barbara Channel oil blowout in 1969, coastal States, particularly those in frontier regions, were concerned that offshore activities could adversely affect them. The 1976 amendment to the Coastal Zone Management Act provided funds to minimize anticipated onshore oil impacts, but did little to alleviate fears related to spills and pollution. These were among the most important issues debated during subsequent consideration of the OCS Lands Act Amendments.

In 1977, the select committee began consideration of H.R. 1614. The committee held extensive hearings, with witnesses primarily representing the administration, throughout the spring. The select committee marked up H.R. 1614 and reported it to the full House (H. Rept. 95-950), which passed it by a vote of 291 to 91 on February 2, 1978. The text of H.R. 1614 was then substituted for the text of S. 9, and the Senate bill, as amended was passed.

In the Senate, S. 9 was passed by the Committee on Energy and Natural Resources, after 4 days of hearings during the spring, on June 21, 1977 with amendments (S. Rept. 95-284). The full Senate debated the bill during 2 days in July, then adopted it on July 15 by a vote of 60 to 18.

Because of differences in the two bills, a conference was called. Conference reports were filed in both Houses on August 10, 1978. The House agreed to the conference report on August 17, while the Senate agreed on August 18. One month later, on September 18, 1978, the President signed the OCS Lands Act Amendments as Public Law 95-372. In his accompanying statement, he praised the law for providing an improved balance between timely energy development and taint in OCS activities. At the same time, however, he called for more comprehensive oil pollution legislation and questioned the need for increased authorization in appropriations for coastal energy impact formula grants.

One of six titles of Public Law 95-372, title V, amended the Coastal Zone Management Act. Other major titles of the OCS Lands Act Amendments updated the 1953 law and established an offshore oil spill pollution fund. Title V amended the 1976 amendments by altering the formula used to calculate State energy impact grant awards, changing grant eligibility and uses, and changing the timing and distribution of formula grants.

#### 96TH CONGRESS

During the 96th Congress the Subcommittee on Oceanography of the Merchant Marine and Fisheries Committee conducted nine oversight hearings on the implementation of the Coastal Zone Management Act. On October 9, 10, and 31, 1979, hearings were convened in Washington, D.C. to take testimony from the administration, industry representatives, environmental groups and other interested organizations. In addition, the subcommittee conducted six regional hearings throughout the country to hear firsthand from State and local organizations and individuals about the successes and failures of the CZM program. These hearings were convened in: New Orleans, La. (November 17, 1979); St. Clair Shores, Mich. (January 7, 1980); Seattle, Wash. (January 9, 1980); San Francisco, Calif. (January 11, 1980); Atlantic City, N.J. (February 2, 1980); and Boston, Mass. (February 4, 1980).

Chairman Gerry E. Studds of the Oceanography Subcommittee determined that, because there had never been any comprehensive review of the CZM program, the "Year of the Coast" provided an important opportunity to evaluate a program which is directly targeted at management of our valuable coastal resources. During the oversight process, testimony was solicited from some 300 groups and individuals, and several consistent themes were reiterated by a majority of the witnesses.

Throughout the country most witnesses testified in support of the CZM program. However, this support varied in scope and magnitude. Practically all of the witnesses requested continued federal support of the program because of the assistance it had provided to the states and their localities.

In his testimony before the Senate Committee on Commerce, Science, and Transportation hearing on the CZM program on April 30, 1980, Chairman Studds reemphasized his support of the program and offered his personal summation of the findings from the oversight

hearings held by the Oceanography Subcommittee. Mr. Studds stated that the accomplishments of the CZM Act could be divided into three categories. First, he noted that most witnesses agreed that the program has been quite successful in focusing attention on the need and value of wise management of our coastal resources. He suggested that the greatest benefit of the program was that it had contributed significantly to the public awareness of the value of our coastal resources and the necessity of their protection. Chairman Studds suggested that, without this public understanding or the will to make rational judgments about the best uses of these resources, any Federal program, regardless of its magnitude, would be ineffective.

The second achievement credited to the CZM program was that it has provided the necessary, although modest, funds to States and localities to improve and enhance their resource management capabilities in the coastal zone. Whether the money was used at the State or local level, Chairman Studds cited the availability of the funds as a major incentive and a necessary tool to improve coastal management throughout the nation's coast.

Thirdly, Mr. Studds testified that he felt section 307, the Federal consistency provision, is a major incentive and accomplishment of the CZM Act. Most witnesses declared that this section is critical for the effective implementation of State management programs. Since the consistency provisions appeared to be working, the subcommittee chairman stated that he felt changes to this section of the act were not now needed.

Finally, Chairman Studds conveyed to the Senate committee several of the critical questions which were consistently asked throughout the oversight process and which appear to require congressional response. These questions include: What is the appropriate level of government for decisionmaking with respect to the uses of critically important resources? How can the national interest in the proper management of coastal resources of national significance best be represented or served? and what should be the role of the Federal Government in protecting that national interest in those states that do not have a coastal management program?

In conclusion, Mr. Studds stated that, during its oversight phase, the subcommittee found considerable diversity in, and wide variations in the quality of, State CZM programs. He noted that one of the virtues of the original act was that it provided the States enough flexibility to devise management programs which best suited their individual systems and needs. This flexibility however, has also led to problems of uniformity, in that some management programs are not as effective or comprehensive as others. He reiterated that any changes made in the act must incorporate this principle of flexibility to allow the States to implement effectively, within their own structures, a program which serves the national interest as well as the interests of the States and their localities.

The oversight hearings conducted by the subcommittee provided the general background and State-specific information needed to make the improvements incorporated in H.R. 6979, the so-called "Studds/Murphy" bill.

Nineteen hundred and eighty has been proclaimed the "Year of the Coast" by a number of major environmental groups and endorsed by the President of the United States—a designation which seeks to shed new light on the value of our coastal resources and on actions that can be taken today to preserve and protect such resources. The population growth trends in the coastal regions of the United States over the past few decades clearly indicate the intense pressure being applied to these regions of our Nation. Unplanned and uncoordinated development of our coastal areas in the past four decades has resulted in tremendous pressure on fragile and complex systems of estuaries, lagoons, beaches, bays, harbors, islands, and wetlands that are habitats for thousands of varieties of birds, fish, shellfish, reptiles and mammals. During the middle of this century, the number of people living in coastal areas grew at three times the national average. As we enter the 1980's, nearly four out of five Americans live within 100 miles of the ocean or the Great Lakes. By the end of this decade, it is predicted that 75 percent of the American people will reside within 50 miles of these shores.

The tremendous economic incentives to develop the coastal regions of our country have, in many instances, led us to build unwisely in areas too fragile to accept such development. In our haste to settle in coastal areas, we have damaged or destroyed over 40 percent of our wetlands, and we continue to do so at a rate of 300,000 acres per year. As a nation we have physically altered over two-thirds of our barrier islands; islands which serve as natural protective barriers against storms. The east coast particularly has seen the elimination of public access to thousands of beautiful beaches. Recently, the Boston Globe carried a series of articles which submitted that

by design accident, and ignorance, Americans have done more damage to the coastline in the last 30 years than nature in all her fury through violent storms and winds and waves over hundreds of millions of years.

We are only now beginning to recognize the consequences of these actions and what we are learning is not pleasant. It has only been in the last 10 years, for example, that we have come to understand the tremendous importance of wetlands in protecting and nurturing the thousands of species that form a complex, interrelated food web. We now know, for instance, that most of the top value fish in the Atlantic and gulf coast waters are directly dependent on wetlands during some stage of their life. It is particularly sobering to recognize that man himself is part of this chain of life.

At the same time, there is the concomitant recognition that a carefully selected portion of our coast must be devoted to commerce and industry. The lifeline of our foreign trade, and a substantial portion of our interstate trade, is the system of ports, docking facilities, and navigational channels located in the coastal zone. Indeed, most of our major urban areas developed on, or in close proximity to, a water mode of transportation. Unfortunately, the deterioration of many of our cities includes the underutilization of urban waterfront and port areas,



thus leading to the slow destruction of one of the key characteristics and cultural features of urban living. Such deterioration also adds additional pressure to non-urban coastal areas as population shifts move from the central city outward to suburban and rural development.

Additionally, as our national energy needs and the policies of the international petroleum market continue to diverge, it is clear that the frontier areas of the U.S. Outer Continental Shelf will be increasingly explored and developed for more domestic oil and gas production. The acceleration of OCS activity will have a profound impact on the coastal zone and will require, to a degree yet undetermined, further utilization of our Nation's coast for a variety of activities related to offshore development. In the not-too-distant future, technological developments in ocean thermal energy conversion and deep seabed mining may create a number of "coastal-dependent" activities which, although determined to be in the national interest, will require careful and rational site specific decisions. The impact of known technologies such as liquefied natural gas terminals and deepwater ports will be immediate, coastal-specific, and potentially devastating if not managed properly.

It is this rational balancing of competing pressures on finite coastal resources which was intended by the 1972 act and it is the growing awareness that such balancing will be increasingly difficult in the years ahead that argues strenuously for the reauthorization of, and the improvements made to, the CZMA contained in H.R. 6979.

The changes proposed in the bill are intended to advance the purposes of the act, without making major revisions in the requirements imposed on States. The bill recognizes the progress achieved to date by coastal States participating in the Federal coastal zone management program by reauthorizing the act to insure that recently developed coastal zone management efforts in States and localities become fully established and accepted functions of their government. H.R. 6979 is a progressive initiative. It seeks to institutionalize federally approved State programs that have been developed, and to foster management improvements during the program implementation stage which are tied to new and specific national policy objectives. This bill seeks to insure that coastal States will receive the minimum amount of funds necessary to institutionalize their present programs, while devoting substantial portions of these funds to activities leading to significant improvements related to the national policy objectives.

The committee disagrees with proposals calling for changes in the requirements pertaining to approval of State coastal management programs (Sections 305 and 306). By the time this reauthorization bill is enacted, approximately 26 States and territories will have developed and achieved Federal approval for coastal management programs. Changes in the Federal approval criteria would call into question the legitimacy of these program approvals. Such modifications would establish a regressive approach, would imply criticism of past State performance, would require States to renew their program development activities in order to regain Federal approval, and would be deleterious to the progress which States have made to date.

The committee further contends that new program approval requirements would require states to reestablish substantial and costly development efforts which would seriously undermine the momentum achieved by coastal States in program implementation. Moreover, during extensive oversight hearings conducted by the committee there was no evidence presented that reflected such a need to require new approval requirements. The proposed changes embodied in H.R. 6979 encompass many of the concerns voiced throughout the oversight process, but do not change the ground rules for program approval. The proposed changes in sections 306 and 312 will provide a mechanism for the necessary improvements in state management programs.

Finally, the committee has not recommended any changes in the Federal consistency provision, section 307 of the existing act. During its oversight phase, the committee heard much testimony on these provisions. However, the consensus of witnesses advocated no change. The committee is cognizant of one disagreement between California and the Department of the Interior which led to a resolution effort through formal mediation proceedings conducted by the Department of Commerce. Although this was the first such mediation or test of the process, the committee is disappointed that the process failed to produce a satisfactory resolution of the dispute. However, the Secretary of Commerce has directed NOAA to issue new regulations to reduce the likelihood of similar disagreements in the future (see appendix I).

In light of the initiative to issue regulations defining the term "directly affecting," the committee believes it is premature to amend section 307 to readdress the problem which has emerged. Furthermore, the hearing record does not support any such change. With the exception of this particular case, State and Federal agencies have not had serious problems in administering the consistency provisions and minor difficulties which have arisen have been remedied with familiarity of the process. Generally all consistency provisions have been properly construed. The only uncertainty that has arisen concerns the interpretation of section 307(c)(1), the threshold test of "directly affecting" the coastal zone. The committee points out that in the preamble to NOAA's Federal consistency regulations, this threshold test was considered during earlier congressional deliberations and was determined to apply whenever a Federal activity had a functional interrelationship from an economic, geographic or social standpoint with a State coastal program's land or water use policies. Under such circumstances, a State has a legitimate interest in reviewing a proposed Federal activity since the management program's policies are likely to apply to the activity. Thus, when a Federal agency initiates a series of events of coastal management consequence, the intergovernmental coordination provisions of the Federal consistency requirements should apply.

The benefits of this system are significant. First, it fosters consultation between Federal and State agencies at the earliest practicable time. This, in turn, enhances the ability of the States to plan for and manage the coastal zone effects which are directly linked to Federal activities. It also allows Federal agencies to avoid the irretrievable commitment of resources for Federal activities likely to lead to results inconsistent with the requirements of approved State programs.

Secondly, broad opportunities for States to influence Federal activities enhances the incentive of the consistency provisions, thereby reinforcing voluntary State participation in the national program. Finally, an expansive interpretation of the threshold test is compatible with the amendment to section 303 calling for Federal agencies and others to participate and cooperate in carrying out the purposes of the act.

In conclusion, the Coastal Zone Management Improvement Act of 1980 seeks to reinforce and promote the progress which States have made in resolving the struggles on their coasts. This bill provides the needed protection of our coastal resources and encourages sensible and expeditious consideration of necessary development along our coasts. In order to provide a management mechanism which fairly considers all uses of coastal resources, the bill stresses the need to incorporate recently acquired knowledge regarding the value of coastal resources into existing decisionmaking mechanism.

#### COMMITTEE ACTION

H.R. 6979 was introduced on March 31, 1980, by Mr. Studds, Mr. Murphy of New York, Mr. McCloskey, and Mr. Pritchard. Subsequent to the bill's introduction, the following Members joined as cosponsors: Mr. Biaggi, Mr. AuCoin, Mr. Hughes, Mr. Lowry, Mr. Donnelly, Mr. Forsythe, Mr. Emery, Mr. Tribble, Mr. Stack, Mr. Dingell, Mr. Bonker, Mr. Lent, Mr. D'Amours, Mr. Bonior, Mr. Anderson of California.

Prior to the introduction of H.R. 6979, the Subcommittee on Oceanography held nine oversight hearings to identify problems in the implementation of the Coastal Zone Management Act of 1972 (CZMA). Six hearings were held in different coastal areas throughout the United States, and three were conducted in Washington, D.C.

The subcommittee held hearings on the administration's bill, H.R. 6956, on April 1, 1980, and on the Studds/Murphy bill, H.R. 6979, on April 16, 1980. H.R. 6956 was introduced by Mr. Murphy of New York on March 27, 1980.

On April 1, the subcommittee heard testimony from Michael Glazer, the Assistant Administrator for Coastal Zone Management of the National Oceanic and Atmospheric Administration in the Department of Commerce. His testimony focused primarily on H.R. 6956, the administration's proposed amendments to the Coastal Zone Management Act of 1972.

On April 16, the subcommittee heard testimony from representatives of: State of Alaska; National Advisory Committee on Oceans and Atmosphere; Coastal Zone Management Advisory Committee; Coast Alliance; Natural Resources Defense Council; Friends of the Earth; Environmental Defense Fund; Sierra Club; Coastal States Organization; Edison Electric Institute; State of California; League of Women Voters; and the National Association of Counties. All of these witnesses except the Edison Electric Institute supported the passage of H.R. 6979, and many of them offered suggestions for improvements in the provisions of the bill. Several additional written statements on behalf of H.R. 6979 were submitted for inclusion in the hearing record.

As a result of these hearings and the need to significantly amend and reauthorize the Coastal Zone Management Act of 1972, the subcommittee decided to proceed with the markup of H.R. 6979, the Studds/Murphy bill.

At the April 24 subcommittee markup, several amendments were offered to H.R. 6979. Section 2 of the bill was deleted in its entirety by an amendment offered by Mr. Wyatt to reinsert the word "zone" in the title of the act. This amendment was adopted by voice vote. Consequently, H.R. 6979 is entitled "The Coastal Zone Management Improvement Act of 1980" and conforming changes were made throughout the bill.

Several amendments were offered to section 3. Mr. Studds introduced an amendment to restore the existing language in policy objectives. This amendment was adopted by unanimous voice vote. An amendment was offered by Mr. Pritchard to focus development in coastal areas where such development already exists. This amendment was also adopted by unanimous voice vote. Mr. Emery introduced an amendment to mandate more explicit requirements for public involvement, and Mr. Pritchard offered an amendment to Mr. Emery's amendment which would specify the types of public involvement. After some discussion, Mr. Pritchard withdrew his amendment to the amendment and Mr. Emery's amendment was adopted by unanimous voice vote.

There were no amendments in the subcommittee markup to section 4 of H.R. 6979.

Mr. Studds offered an amendment which would clarify the new proposed section 306(i). This section described and mandated the Federal prescription of standards for Federal activities only in States which do not comply with section 306(i). After substantial discussion, Mr. Stack introduced an amendment to Mr. Studds' amendment which would delete all federal prescription of regulations. This amendment, in effect, would leave section 306(i) as an encouragement to states to inventory and designate coastal resources of national significance, but it would not allow Federal regulations for such areas if they did not comply with this section. Mr. Stack's amendment to Mr. Studds' amendment was adopted by a rollcall vote of 11 ayes, 8 nays, and 1 pass. Mr. Studds' amendment, as amended, was then adopted by an unanimous voice vote. Mr. Emery offered an amendment to establish a high priority in coastal management for aquaculture and pollution control. This amendment was also adopted by unanimous voice vote.

Mr. Hughes offered an amendment to section 6 which would clarify section 306A, Resource Management Improvement Grants. This amendment would permit grants to be used for operating expenses of appropriate transportation systems, and it was adopted by unanimous voice vote. Mr. Studds introduced an amendment to clarify the original intent of the proposed language for the use of section 306A grants. This amendment was also adopted by unanimous voice vote.

There were no amendments to section 7 in the subcommittee markup of H.R. 6979.

Mr. Emery offered an amendment to delete the citizen suits provision in section 8, and it was adopted by voice vote.

Mr. Studds introduced a series of amendments to section 9. Each one was offered individually and was adopted by unanimous voice

vote. The first amendment clarified and required that each performance review contain a written evaluation addressing how the State has implemented and enforced its management program. The second amendment required the Secretary hold public meetings during the evaluations. The third amendment provided gave the States the opportunity to remedy their deviation before being penalized. The fourth amendment specified due process procedures to be followed by the Secretary when withdrawing program approval.

There were no amendments to section 10 in the subcommittee markup of H.R. 6979.

Mr. Studds offered a series of technical amendments, for which he requested unanimous consent that they be considered en bloc and agreed to. There were no objections, and the amendments were adopted.

There were no amendments to section 11 in the subcommittee markup of H.R. 6979.

Mr. Hughes offered an amendment to section 12 which would clarify section 315 to indicate that portions of islands may be purchased with island-preservation grants. This amendment was adopted by unanimous voice vote.

Mr. Bonior offered an amendment which would provide coastal energy impact funds for coal transshipment. After much discussion, Mr. Bonior withdrew his amendment and indicated that a refined amendment would be offered at full committee markup.

Mr. AuCoin offered an amendment which reestablished a separate authorization for section 309. This amendment was also adopted by unanimous voice vote.

Mr. Forsythe offered an amendment containing a provision for a one-house veto of all regulations promulgated pursuant to the act, but withdrew this amendment and indicated that a similar amendment would be offered in full committee markup.

Mr. Dornan introduced an amendment to shorten the length of the authorizations from 1988 to 1985. This amendment was defeated by voice vote. He reoffered his amendment with a change to exclude the CEIP authorization which was already authorized in existing law. This amendment was also defeated by voice vote.

After the above action was taken, Mr. AuCoin requested unanimous consent that a single amendment in the nature of a substitute, incorporating all the amendments adopted by the subcommittee, be reported to the full Committee on Merchant Marine and Fisheries. There were no objections, and the bill was reported to the full committee.

This substitute to H.R. 6979 was prepared by the staff of the Subcommittee on Oceanography and it included all the amendments adopted at the subcommittee markup of April 24th. This committee print was prepared for use at the full committee markup on May 7, 1980.

At the May 7 full committee markup, in open public session, the committee print to H.R. 6979 was adopted as the markup vehicle, and several amendments were proposed.

Mr. Murphy introduced an amendment to section 4 which was adopted by unanimous voice vote. This amendment strengthened the

section 303 policy for the protection of natural resources and it also amended the eligibility criteria for a State to receive 306A grants; specifically, a state must have made or be making satisfactory progress toward achieving the provisions of 306(i) to continue receiving 306A grants after September 30, 1984.

Mr. Wyatt introduced an amendment which would have deleted the words "and pollution control" from section 303(H). This amendment was defeated by a roll call vote of 19 nays, 15 yeas.

Mr. AuCoin introduced an amendment to reinsert Federal standards for States without an approved management plan. This amendment was a modified version of language present in H.R. 6979 as originally introduced. This amendment failed by voice vote.

Mr. McCloskey offered an amendment to section 306(i) which would delete the allowable exceptions to the standards established to protect the coastal resources of national significance. This amendment was adopted by voice vote.

Mr. Murphy introduced two amendments to section 5. These amendments were offered individually and both were adopted by voice vote. The first amendment clarified the term "urban waterfront and port". The second amendment specified that methods, whether structural or nonstructural, may be used for shoreline stabilization.

Mr. Pritchard offered an amendment to section 5 which clarified that educational and interpretative costs may be included under management costs for grants under 306A. This amendment was adopted by unanimous voice vote.

Mr. Bonior introduced an amendment which created a new subsection to the coastal energy impact program. This amendment allowed States which suffered impacts from the transportation, transfer or storage of coal to be eligible for special coastal energy impact funds. This amendment authorized \$25 million for these grants, and was not intended to interfere with a State's eligibility for other grants. This amendment was also adopted by voice vote.

Mr. Pritchard offered an amendment to section 7 which directed the Secretary to offer technical assistance to States for the improvement of their management program. This amendment was adopted by unanimous voice vote.

Mr. Hughes offered an amendment which was defeated by a rollcall vote of 19 nays, 15 yeas, and 2 present. This amendment deleted language requiring federal agencies to amend their regulations or administrative procedures if they conflicted with the national coastal management policies and objectives of the CZMA.

Mr. Forsythe offered an amendment which created a new section to H.R. 6979. This amendment provided for a two-House veto provision over final regulations promulgated pursuant to the CZMA. This amendment was adopted by unanimous voice vote.

Mr. Wyatt introduced an amendment which reinstated the Coastal Zone Management Advisory Committee. This amendment was defeated by a recorded rollcall vote of 19 nays, 15 yeas.

Mr. Studds introduced a series of technical amendments that he offered en bloc. These amendments were adopted by unanimous voice vote.

Mr. Hughes introduced an amendment to section 3 clarifying the role of coastal States in determining the biological or natural storm

protective value of coastal resources of national significance. There were no objections, and this amendment was adopted by unanimous consent.

Finally, Mr. Studds made the motion to favorably report H.R. 6979, the Coastal Zone Management Improvement Act of 1980, out of the full Committee on Merchant Marine and Fisheries to the House. By unanimous voice vote on May 7, 1980, the Committee on Merchant Marine and Fisheries ordered H.R. 6979, as amended, reported to the House.

## SECTION-BY-SECTION ANALYSIS OF H.R. 6979

### *Section 1*

This act is designated as the "Coastal Zone Management Improvement Act of 1980".

### *Section 2. Amendment to Declaration of Policy*

Section 2 of this bill amends section 303 of the Coastal Zone Management Act of 1972, the Congressional Declaration of Policy. New section 303 clarifies and specifies more precisely the national coastal policy of the Act. The revised section 303 does not represent a major departure from existing policy, but instead a refinement and elucidation of original congressional intent. The new section 303(1) retains existing language in the Act which declares the national policy, "to preserve, protect, develop and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations." However, new section 303(2) significantly expands the policies and objectives which states are encouraged to address in their management programs. Section 303(2) encourages states to exercise effectively their responsibilities in the development and implementation of management programs to achieve the wise use of land and water resources of the coastal zone. This section retains existing language which emphasizes that a program needs to give full consideration to "ecological, cultural, historic, and esthetic values as well as to needs for economic development." The retention of this language underscores the Committee's intent that management programs are to be balanced fairly among these aforementioned values.

Section 303(2) also contains a list of eight national policies and objectives that represent national considerations which states are encouraged to provide for in their management programs. States should at least provide for the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, fish and wildlife and their habitat. This language, which is similar to that contained in H.R. 6956, the bill which was introduced by request for the Administration, emphasizes those natural resources which need to be protected in the coastal zone. States should also provide for the management of coastal development to minimize the loss of life and property caused by improper development and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands. The third objective is priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to fisheries development, recreation, energy, national defense, ports, and transportation, and to the maximum extent practicable, of new commercial and industrial developments in areas where

such development already exists. This policy underscores the importance of priority consideration to coastal dependent or water dependent uses in the coastal zone and the need where development already exists in order to protect coastal resources. Although the thrust of this policy is for expedited review of permits and consideration of coastal-dependent uses or facilities, it does not imply necessary accommodation of these facilities. Decision-making with respect to the siting of a facility in a state's coastal zone should take into account the overall policies and purposes of this Act in order to ensure that all priorities and values are fairly evaluated. The term "orderly process" is intended to promote processes which are capable of planning for, considering, and deciding upon whether, and under what conditions, facilities are to be sited in the coastal zone. Finally this policy emphasizes the desirability, to the maximum extent practicable, of siting development in areas where development already exists.

The importance of the phrase "maximum extent practicable" lies in the promotion, where feasible and appropriate of siting development in already developed areas. However, it is not intended to require such siting nor does it alleviate the states responsibility to give full consideration to the other CZM goals. States are also encouraged to provide public access to the coasts for recreation purposes. Although not specifically stated, the Committee intends that access to coastal areas not be limited to rural areas but include access to the coast in urban communities. The fifth objective encourages the coordination and simplification of procedures which will ensure expedited decision-making and management of coastal resources. This objective recognizes the need for the proper coordination of governmental procedures or the appropriate institutional arrangements in a state government in order to ensure coordinated and expedited decision-making. Without the necessary coordination, implementation efforts of management programs may be frustrated and the predictability for coastal users of decisions made pursuant to a management program may not be forthcoming. Congress recognized this in 1972 when it found that the existing state and local institutional arrangements for planning and regulating land and water uses were inadequate (section 302(g) P.L. 92-583). Policy 303(f) recognizes a problem between the processes in state management programs and cumbersome federal procedures which results in inadequate coordination. This new policy underscores the importance for states to consult and coordinate with, and give adequate consideration to the federal agencies in the implementation of their management programs. States are encouraged to provide federal agencies with the opportunity to participate and consider federal agency views. This does not, however, imply that a state must comply with these views. The giving of timely and effective notification of and opportunity for public and local involvement emphasizes the need for public involvement in coastal management decision-making.

Citizen involvement can be achieved most effectively through such mechanisms as public meetings and hearings, the establishment of citizen advisory committees, and the provision of other types of timely opportunities for public comment on a particular decision affecting coastal areas. If a citizen advisory committee is established, the membership of such a committee should be chosen to ensure a balanced



representation between both environmental protection and developmental interests.

This policy encourages states to make genuine efforts toward involving local governments in the decision-making process, to ensure sound and reasonable decisions. The eighth and final objective, which states are encouraged to provide for, is the promotion of activities encouraging the harvesting, utilization, development, and growth of aquatic plants and animals for recreational and commercial use. These activities may include aquaculture, fishing and pollution control. The Committee intends these activities to be compatible with sound conservation and management policies, to ensure the full utilization of the resource without threatening its vitality or continued existence. The phrase "pollution control" is included to underscore the fact that many areas where aquatic plants or animals may be grown for commercial purposes are sensitive to bacterial pollution resulting from sewer or industrial discharges. As part of their overall coastal management responsibilities states are encouraged to give consideration to the proper placement and operation of pollution control equipment and facilities.

Finally, new section 303 (3) encourages, as a comprehensive national policy, the participation and cooperation of the public, state, and local governments, and interstate and other regional or areawide agencies, as well as of federal agencies, in carrying out the purpose and policies of the Coastal Zone Management Act.

### *Section 3. Definitions*

Section 3 of this bill amends section 304 of the Coastal Zone Management Act of 1972 by adding a new definition. The term "coastal resource of national significance" is defined as meaning any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal state to be of substantial biological or natural storm protective value. This definition emphasizes those types of resources which may be of national significance, in terms of their biological or storm protective values. States are provided the opportunity to determine whether the value of one of these particular resources is substantial, thus representing a national interest. NOAA will provide criteria to the states to assist them in determining such values. It is expected that states will give full consideration to the biological and natural storm protective values and be consistent when they designate areas as coastal resources of national significance.

### *Section 4. Administrative Grants*

Section 4 of this bill makes several significant changes to section 306 of the Coastal Zone Management Act of 1972. Section 306 of the Act contains those provisions which give the Secretary of Commerce the authority to make administrative grants to states for the implementation of their management programs. The new section 306 sets forth three criteria which the Secretary must follow prior to the awarding of a grant. The Secretary may make grants to any coastal state for not more than 80 percentum of the costs of administering a state management program if the Secretary finds that the program meets the requirements in section 305(b), approves the program in

accordance with subsections (c), (d), and (e) of section 305 and finds that a coastal state will expend an increasing proportion of each grant received under this section (but not more than 30 per centum of the total grant unless a state chooses to expend a higher percentage) on activities that will result in significant improvement being made in achieving the coastal management objectives specified in the new section 303(2) (A) through (H). The most significant change in this section is that the Secretary must find, if a state has had an approved program for more than a year, that the state will continue to make significant improvements toward meeting the coastal management objectives.

This new requirement recognizes and ratifies the current Administration's practice of requiring that a state devote 20 percentum of the grant for management improvements. The Committee feels that this practice should be continued but that no more than 30 percentum of the entire 306 grant should be devoted to improvements in the national objectives, unless a state volunteers to do so. The remaining 70 percent of the grant will be available to the state to implement their management program and to meet states' needs as identified in their management programs. It is expected that NOAA will continue to ensure that these remaining funds are expended to implement and enforce the management program as approved in conjunction with state identified needs consistent with their management program.

It is further expected that NOAA will write regulations to assist the states in determining those types of activities and projects which will lead to significant improvements being made in achieving the coastal management objectives. Although 30 percent of the 306 grant shall be targeted toward significant improvements, this is not intended to infer that improvements will be needed in each of the areas identified in section 303(2) (A) through (H). As a result of the section 312 review, it is anticipated that NOAA will negotiate with the state to develop a work program that will establish priority uses for the improvement funds. The Committee hopes that this process will allow NOAA and the states enough flexibility to address correctly those most important and pressing areas where improvements are necessary.

The proposed changes also clarify that a section 306 grant may be awarded for periods of 12 or more months, according to management needs. However, it is not anticipated that these grants shall be longer than 2 years, as this may hinder the effective implementation and improvement of management programs. For purposes of clarification, the Committee has indicated those costs which are eligible for section 306 grants. Specifically 306 funds are not to be used for land acquisition, low-cost construction projects or those uses specifically restricted to urban waterfront and port redevelopment grants under section 306A (a) (2). Section 306 funds may only be used for those allowable uses identified in section 306A when there is no duplication and when appropriate. The Committee expects NOAA to ensure that uses of 306 funds are not redundant with funds made available under section 306A.

The Committee did not recommend a specific formula for the allotment of section 306 funds. However, it is aware that contrary to existing law, NOAA has not promulgated regulations which address the issue of how funds are divided among states. Although the Com-

mittee recognizes the need for some Secretarial discretion, it recommends that NOAA expeditiously describe, through rule-making, the factors and the relative weights assigned to these factors which it considers when allotting section 306 funds. The Committee further recommends that factors to be considered should at least include miles of shoreline covered by a management plan, population of the coastal zone, total acreage of the coastal zone, federal lands contained within the coastal zone and other relevant factors.

H.R. 6979 contains a new section 306(i) which encourages the states to provide in their management programs for the inventory and designation of coastal resources of national significance and for specific and enforceable standards to protect these resources. As introduced, H.R. 6979 contained provisions which would allow the Secretary of Commerce to designate these areas and prescribe standards for Federal activities, by regulation, in the event that a coastal state did not designate such areas, and specify permissible land and water uses in those areas by September 30, 1984. The Committee believes that this would mandate participation in the CZM program, a step which the Committee feels is inappropriate at this time, even though the standards would only apply to Federal agencies. Instead, the Committee has proposed that states should be encouraged to do this designation, which is intended to protect the national interest in the coastal resources of national significance. Further the Committee believes that this encouragement will put states on notice, that they are expected to protect the national interest in coastal resources of national significance. The Committee has made it clear that this is a voluntary program, and all provisions which would allow Federal intervention have been struck from the bill. What remains is an encouragement for states to protect nationally significant resources by prescribing standards which will protect such resources. Moreover, these standards are to be enforceable state standards which may allow development, as long as the resource is protected.

For example, an appropriate standard for a barrier island designated as a resource of national significance, may be one which requires all development to be a certain distance from the beach, in order to allow the island to provide its natural storm protective function. The Committee recommends that the standards be sufficient to protect the resource, but suggests certain exceptions. These exceptions are as follows: the use or activity is coastal-dependent, the benefits significantly outweigh the damage to the resource, there is no practicable alternative location in a less damaging location and all reasonable mitigation measures have been taken. The exceptions imply that standards should be strict enough so that piecemeal or inadvertant damage to the resource does not occur but if uses or activities meet the exceptions, then they should be allowed in these areas. The Committee did not include the exceptions in the bill because it wanted to emphasize the development of actual standards. The Committee is aware that some state management programs may already comply or states are in the process of complying with standards similar to those described above. However, states which do not comply are encouraged to do so and funds under section 306 will be available to meet their needs to do this. However, identification and designation of coastal

resources of national significance must be linked to enforceable state standards and the Committee expects that NOAA will condition such financial assistance on a state commitment to apply such standards. The designation of these resources and establishment of standards to protect them should be done in conjunction with the implementation of the state's management program.

The Committee does not expect that the encouragement of activities under section 306(i) will determine the efforts of states to implement and enforce their management programs. Because it is expected that most states will have already completed or be well on their way toward complying with section 306(i) by September 30, 1984, the Committee has conditioned the availability of 306A funds to satisfactory progress in complying with section 306(i) after that date. Satisfactory progress means reasonable compliance with all the activities described in section 306(i) and reasonable justification for any shortcomings. It is further expected that the availability of section 306A funds will assist the states in more easily achieving the purposes of section 306(i) and complement the purposes of this new section.

#### *Section 5. Coastal Resource Improvement Program*

Section 5 of the bill adds a new section 306A to the Coastal Zone Management Act of 1972 entitled "Resource Management Improvement Grants." Coastal states eligible for these grants must have an approved management program and in the judgment of the Secretary, be making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in new section 303(2). As originally introduced, H.R. 6979 conditioned section 306A funds on the satisfactory completion of activities described in section 306(i). However, the Committee recommends that a more appropriate condition for eligibility of section 306A funds is the satisfactory progress in activities which result in improvements in the national coastal objectives of this Act.

The phrase "satisfactory progress" means that states have made a full and good faith commitment to those activities and projects required of them by the amended section 306. Specifically, it is expected that states will have reached substantial completion of improvements in achieving the coastal management objectives or have reasonable justifications for shortcomings and agree to remedy identified problems. Although the Committee has decided not to prescribe a limit on the amount or percentage of funds which a state may be reduced as a result of program review under section 312, and maintain its eligibility for section 306A funds, it is expected that if a state is clearly not making satisfactory progress and their section 306 grant has been reduced, NOAA will use its discretion to terminate eligibility until the problems have been remedied.

Section 306A provides grants to eligible coastal states for: (1) the preservation or restoration of specific areas designated under the management program procedures required by section 306(c)(9) because of their conservation, recreational, ecological, or esthetic values, or because they contain one or more coastal resources of national significance; (2) the redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated under section 305(b)(3), in the state's management program as areas of par-

ticular concern; and, (3) the provision of access to public beaches and to other public coastal areas and waters in accordance with the planning process required under section 305(b)(7). The Committee realizes that this new section represents a departure from the original theoretical concepts of the Coastal Zone Management Act, which were based on the theory that by simply providing for good processes and procedures in a management program, rational governmental decision-making would occur and certain results would be forthcoming. However, the Committee is aware that the establishment of a sound management process does not necessarily infer the utilization of that process or a specific outcome. Section 306A funds are intended to provide states with a moderate amount of funds to implement their management programs with specific results anticipated. Although the amount of these funds will not be substantial, it is hoped that they will allow states to obtain on-the-ground results from their management processes and enhance the overall effectiveness of their management programs.

The three types of grants provided for in this section are directly linked to management processes required in a federally approved management program and the Committee wants to emphasize this basic link between section 306 and 306A. It is expected that a single agency within a state will administer both of these sections to plan activities and projects which complement each other and result in the overall improvement of a state's management program.

The Committee has gone to great lengths to describe how the funds under this section are to be used to ensure that the purposes and policies of this Act are not subverted. Section 306A funds may be used for acquisition of fee simple or other interests in land and it is anticipated that states will utilize all their options including acquisition when applying these monies. Section 306A funds may also be used for low-cost construction projects, determined by the Secretary to be consistent with the purposes of this section. Such low-cost construction projects may include paths, walkways, minor roads, foot bridges, and parks. The Committee expects that construction projects funded under this section will not be capital intensive, but instead minor in scope so as to insure that available funds will be widely distributed among eligible states. Funds in this section are not intended to be used to finance large-scale erosion-prevention structures which are very capital-intensive with little long-term effect.

As discussed in the section called "Summary of Key Provisions" in this report, the Michigan experience provides a sound justification for making low-cost construction funds available to states to enhance the effectiveness of their management program. In Michigan, low-cost structures were used in conjunction with specific management practices in areas of preservation and restoration and these structures significantly increased the effectiveness of the overall management program. Funds under this section may also be used for urban waterfront redevelopment activities which are specified in the bill. One eligible activity is shoreline stabilization measures which includes structural and non-structural options to provide for increased public use and access in urban waterfront areas. The term "urban waterfront and port" is defined as any area that is densely populated and is being used for, or

has been used for, urban residential, recreational, commercial, shipping or industrial purposes. Under the direction of Chairman John Murphy, the Committee has defined this term to ensure that funds used for urban waterfront redevelopment are used appropriately for areas which have historically been developed. However, the Committee does not intend to define the term "densely populated" as this is a relative term with respect to the many coastal states. For example, an urban area in the state of Alaska may be significantly less dense in population than an urban area in the state of New York, but still qualify as an urban area. The Committee does not believe that these comparisons are particularly relevant, and instead recognizes the need for some discretion in the administration of these grants. Moreover, since the use of these funds is a state prerogative, coastal states are expected to assist NOAA in defining urban waterfront and port areas within the coastal zone of that particular state.

Funds under this section can also be used to pay for appropriate transportation systems, such as shuttle bus services to coastal areas, parking services, bikepaths, and other relevant activities which provide for increased access to coastal areas. Educational and interpretive projects such as assigns, visitor centers, maps, brochures, tour guides and other types of technical assistance activities are encouraged to promote better shoreline management, to foster the familiarization of coastal residents with the many activities which occur in coastal areas, and to provide a historical and future perspective, and to advance the purposes of this section.

Finally this section directs NOAA to work with the coastal states and other federal agencies to promote the utilization of related sources of funds. Since funds awarded to a State under this section may be used for the payment of the nonfederal share required by other federal programs, when the objectives of such programs are compatible with the goals and policies of the CZM Act, NOAA is directed to take a primary role in the federal government to assist states in securing such funds as urban waterfront redevelopment funds, HUD, EDA, and Land and Water Conservation funds. Furthermore, it is expected that when a state awards any of the funds made available under this section to a local community, NOAA will ensure that these funds are used in a manner consistent with any formally adopted regional or local development plans. Although H.R. 6979 does not contain a specific formula for the disbursement of section 306A funds, it is required that the total amount of grants made to any coastal state under this section, not exceed an amount equal to 10 per centum of the total amount appropriated in a given year. The Committee expects that NOAA will be fair in the allotment of these funds and will consider such factors as progress made in achieving significant improvements in the coastal management objectives, need and availability of other funds to accomplish the purposes of this section, past performance with respect to any funds received under this section, and other relevant factors.

#### *Section 6. Coastal Energy Impact Program*

Section 6 of the bill amends the Coastal Zone Management Act of 1972 by adding a new section 308(c) (3). This new section allows the

Secretary to make grants to eligible coastal states which are being or likely to be affected by coastal energy activity with respect to the transportation, transfer or storage of coal. Such grants may be used to prevent, reduce, or ameliorate the environmental and recreational effects of such coastal energy activity. NOAA is directed to make allotments of these grants to states based on regulations which shall take into account the amount of coal transshipped within the ports of a state, the number and magnitude of coal facilities and other related factors. Section 308(c) (3) is authorized at a level of \$25 million for an eight year period.

Congressman David Bonior of Michigan introduced this amendment to the Coastal Energy Impact Program and was supported by the Committee on his efforts to assist states which are now being severely impacted by increased coal usage. The Committee believes the impact on coastal resources, particularly in the Great Lakes region, which results from the national commitment to move toward coal, as an energy alternative, is legitimately a concern of the Congress. Today the commitment to become energy self-sufficient, the President's mandatory coal conversion program, and the U.S. Environmental Protection Agency clean air standards which require the use of low-sulfur western coal, clearly indicate increases in the amount of coal utilization and movement. These federally-induced impacts will severely affect the coastal areas throughout this country, and especially in the Great Lakes states.

Seventy-eight percent of the utility power plant conversions targeted by the U.S. Department of Energy are located in the Great Lakes and North Atlantic states coastal areas, involving an additional potential coal consumption of 35 million tons annually. During the last three years, coal transport on the Great Lakes reached 40 million tons annually with projections showing the total tonnage could increase to 135 million tons by the year 2000. This represents a 360 percent increase over the 1977 figures, and is more than double the historic high of 1948. The projected increase is largely due to the influx of western coal from Montana to transshipment facilities in the upper Great lakes. Presently, one facility at Duluth-Superior Harbor is moving eight million tons of western coal to power generating plants in lower Michigan, with eventual expansion planned for 20 million tons annually. Similarly, a facility is planned for Kewaunee, Wisconsin, which would ship five million tons of western coal to ports on eastern Lake Michigan annually. The availability of low sulfur western coal has prompted Buffalo, New York to consider the development of an unloading facility which would receive between 6 and 12 million tons annually, providing coal for inland and lakeside users.

The Committee recognizes a national responsibility to assist states with these federally induced impacts, similar to the responsibility exercised with federally induced OCS impacts. Because the Committee recognizes the differences in scope and magnitude of these actions, it has recommended a much lower authorization level for the coal transshipment grants. The Committee expects that the addition of this new section will not have an effect on the monies made available to states under section 308(d) (4) for the amelioration of environmental impacts associated with coal transshipment.

### *Section 7. Interstate Coastal Zone Management Coordination*

Section 7 of this bill amends section 309 of the Coastal Zone Management Act of 1972. Most of the amendments in this section are technical in nature, with the exception of one. Specifically, the bill states that the Secretary may now permit a coastal state to use a portion of its funds received under section 306 for the purposes of this section, if there are no funds available under section 309. States with approved programs may enter into interstate agreements and use a portion of their section 306 funds to pay for their costs. However, if a state with an approved program enters into an interstate agreement with a state which does not have an approved program, that state will have to provide its own share of the costs. This proposed change is not expected to minimize the need or importance of an appropriation for section 309, which to date has not received any funds.

### *Section 8. Review of Performance*

Section 8 of the bill amends section 312 of the Coastal Zone Management Act of 1972. As amended, section 312 prescribes a process which is to be followed during the continuing review of a state's performance with respect to the implementation of its management program and its adherence to the terms of any grants, loans or cooperative agreements made under this title. The proposed changes also provide for more effective and meaningful public participation during the evaluation. H.R. 6979 directs the Secretary to reduce by up to 30 percent a state's total section 306 grant if that state is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2). Moreover, the Secretary is directed to follow certain procedures to ensure due process if program approval is withdrawn. During this process the Secretary is expected to suspend funds available under the Act, until a final decision is reached.

The Committee recommends these changes because it realizes that the evaluation of a state management program is a prime opportunity to account for both state accomplishments and shortcomings. The Committee is also disappointed that to date, the Administration has not yet issued rules or regulations describing the criteria used in such evaluations. The Committee expects that with the new changes, and clarification, the Administration will expeditiously issue such regulations in conformance with Congressional intent to strengthen the evaluation process. The amended section 312 allows the Secretary to reduce financial assistance to a state based on the evaluation conducted during the grant period. It is expected that NOAA will conduct a state performance review during each administrative grant period. During the evaluations, NOAA will specifically examine how a state has administered and enforced its management program, addressed the coastal management objectives in section 303(2) (A) through (H) and adhered to the terms of any grants received under section 306. Evaluations of sections 306(A), 308, and 315 awards should also be conducted, but may be separate from the section 306 review. These evaluations should at least review the general management of the grant, local and public participation, and the relation between the grant project and the approved management program.



The procedures which the Committee recommends were supported by nearly all of the witnesses who testified at the reauthorization hearings conducted by the Subcommittee on Oceanography. The authority for the Secretary to reduce funds is a new, less drastic tool than that provided under existing law which only allows for withdrawal of program approval. The Committee realizes that this new tool will assist the Secretary in the administration of the program to insure that the national goals and objectives are being served in the implementation of state management programs.

The Secretary shall only withdraw approval of a management program upon determining that a coastal state is failing to adhere to and is not justified in deviating from (1) the management program, or (2) the terms of any grant or cooperative agreement funded under section 306, and refuses to remedy the deviation. The Committee expects that these procedures will guarantee that a state management program approval is not arbitrarily or unfairly withdrawn given the due process procedure required under section 312(e). Moreover, a state is provided the opportunity to remedy a deviation, if one is found, prior to withdrawal of program approval. Although there is no time limit specified for how long a state is given to remedy the deviation, it is expected that the state will be reasonable and expeditious and negotiate a time schedule with the Secretary to remedy the deviation. If program approval is withdrawn, unexpended funds shall be returned to the Secretary and section 307 consistency provisions shall no longer apply.

Finally, a new section 312(f), which is the result of an amendment offered by Congressman Joel Pritchard of Washington, allows the Secretary to conduct research, with respect to improving coastal management, and disseminate information to the coastal states to assist them in improving their overall coastal management efforts. These new changes incorporate portions of deleted section 310, which allows the Secretary to conduct research, enter into contracts, award grants and conduct other activities which will assist the Secretary in providing information to the states necessary for the improvement of coastal management. It is expected that NOAA will distribute pertinent section 312 reviews and other relevant information when providing technical assistance to the states. Only through careful examination of these evaluation documents, not only by the Office of Coastal Zone Management, and not only within the state involved, but by other interested persons, can the state-of-the-art of CZM be advanced. Moreover, since NOAA is directed in section 306A(f) to assist the states in finding other available monies to enhance the effectiveness of their management programs, it is anticipated that important information of this type will also be distributed among the states. The Committee has increased slightly the authorization for program management funds because activities undertaken by the Secretary pursuant to this section will be paid for by NOAA.

#### *Section 9. Termination of Research and Technical Assistance and the Coastal Zone Management Advisory Committee*

Section 9 of the bill deletes section 310 and 314 of the Coastal Zone Management Act of 1972. Section 310 of the Act entitled "Research

and Technical Assistance for Coastal Zone Management", is deleted because this authority has been incorporated in the amendments to section 312 of the Act. By deleting this section the Committee does not mean to diminish the importance of technical assistance. To the contrary, the Committee has proposed amendments to Section 312 which essentially embody the major provisions of the deleted section. Because there have never been any funds available under section 310, it is expected that the changes will enhance the overall purpose of providing technical assistance to the states.

The Coastal Zone Management Advisory Committee has also been deleted. Although the Subcommittee on Oceanography received excellent testimony from individual members of the Committee, none of it was on the behalf of the Advisory Committee. Moreover there is concern that recommendations through consensus of divergent views, a concept embodied in the Advisory Committee, has been ineffective. It is expected that the proposed changes to the policy section of the CZM Act and the evaluation section of the Act will provide sufficient and meaningful input from the public. The Committee is aware that the National Advisory Committee on Oceans and Atmosphere (NACOA) already concerns itself with the coastal zone management program, and that they in fact have offered extensive testimony and advice on the CZM program. Moreover, since the Merchant Marine and Fisheries Committee has jurisdiction over NACOA, the Committee feels certain that it can direct NACOA to specifically address problem areas associated with the CZM program, and eliminate duplication by not reauthorizing the CZM Advisory Committee.

#### *Section 10. Annual Report*

Section 10 of this bill amends section 316 of the Coastal Zone Management Act of 1972.

Section 316 of the Act presently requires the Secretary of Commerce to provide the President with an annual report for transmittal to the Congress, due prior to November 1, which summarizes the administration of the program for the preceding fiscal year. The Committee is aware that this reporting system has not worked effectively in the past. Invariably the report has been submitted late due to the difficulty of developing a summary within one month following the end of fiscal year, and to the extensive time required to clear the report through NOAA, the Department of Commerce and the Office of Management and Budget. In addition, the annual information described in the report is usually inadequate since some state programs are administered and evaluated on a basis which exceed our fiscal year.

To remedy this situation and to ensure that the Congress receives adequate information regarding the implementation of the national program, the reporting requirements in Section 316(a) have been modified to require a biennial report to be submitted by April 1 of the year following the reporting period. The first report shall cover program administration during fiscal years 1980 and 1981. This system will provide the Administration with ample time to summarize and submit a report regarding the activities of the two preceding fiscal years.

Moreover, to ensure Congressional review of the evaluation phase of the national program, the section 316 reporting requirements have

been expanded to direct the Secretary to include within the report a summary of the evaluation findings prepared in accordance with revised section 312 and also a description of any program termination or federal funding reduction actions taken as a consequence of state program evaluations.

The other significant change in this section which the Committee recommends is a federal review of those programs which may conflict with the national coastal policy identified in the CZMA. President Carter has asked for a similar report and since the Committee believes it is of major importance, it has Congressionally mandated such a report. During reauthorization hearings, the Committee received testimony from NOAA on the progress of this report and it suggested that some Federal agencies were more cooperative than others. Furthermore, they testified that their initial findings indicated that there were numerous programs which had potential conflicts or problems with the goals and policies of the CZMA. The Committee suspects that these conflicting programs may cost the taxpayers many millions of dollars and efforts to curtail these practices should be undertaken. For example, the federal government currently invests \$3.3 billion annually to keep people in the nation's floodplains. This includes the programs of the Army Corps of Engineers, disaster loans of the Small Business Administration, Farm Homeowners Assistance grants, and the Federal Emergency Management Agency disaster relief and flood insurance programs.

The Department of Interior's Barrier Island Environmental Impact Statement estimated that \$500 million was spent by the federal government on barrier islands in a recent two-year period, islands which are generally too fragile for development and serve as natural storm protective barriers. The Flood Insurance Program last year paid out over \$17 million in claims while collecting only some \$6 million from communities in premiums. Consequently, the Committee has proposed that each Federal agency shall, after consultation with the Secretary and to the extent consistent with the law establishing the program, issue or amend appropriate regulations or administrative procedures to eliminate or minimize such conflict in the administration of that program. This is a directive to those Federal agencies identified in the report whose enabling statutes permit amendment of their own regulations to bring them into conformity with the CZMA. In their report to the Congress the Administration is also asked to recommend legislative proposals necessary to eliminate or resolve existing conflicts among Federal laws that affect the uses of coastal resources. Because of the many Federal programs which may have conflicts, the Committee expects that NOAA will only be able to address those programs having the severest conflicts. Updates and revisions of this report are expected to be included in the Administration's biennial report to Congress along with a summary of the actions federal agencies have taken to eliminate the identified conflicts. It is expected that the Administration will persevere in its efforts to bring about a coherent program of national coastal policies and it may be that another Federal program review may be required at some future date.

The Committee believes that only through measures of this type will the Federal government begin to shape a coherent, consistent,

and comprehensive policy with respect to the Federal programs impacting our coastal resources. Such a policy could reduce federal activities in the coastal zone, safeguard our coastal resources, protect human life by denying federal subsidies in high hazard areas and contribute substantially to the savings of several billion dollars.

### *Section 11. Estuarine Sanctuaries*

Section 11 of the bil amends section 315 of the Coastal Zone Management Act of 1972. The Committee has recommended that beach access be deleted from this section because there are provisions for coastal access in the new section 306A. However, amended section 315 maintains provisions for estuarine sanctuaries and preservation of islands.

Estuaries are among the most biologically productive regions of the nation. It has been estimated that two-thirds of the commercial and sport fish landed in the United States are estuarine dependent during some portion of their life cycle. The estuarine system is extremely fertile, replete with microscopic plant and animal life on which animals higher up on the food chain are dependent for nourishment. In fact, many of these fragile estuarine ecosystems provide man with more food per acre than the best midwestern farmland.

The estuarine sanctuary program provides fifty percent matching grants to coastal states to acquire develop or operate estuarine areas. These sanctuaries are set aside to serve as natural field laboratories in which to study and gather data on the processes occurring within the estuaries of the coastal zone. By the end of this year there will be 9 established sanctuaries, the first being approved in 1974. As an outgrowth of this federal effort, the states of Florida, California and Washington are considering creating their own state sanctuary program. The Committee recognizes the value of section 315(i) because it does not create any new federal regulatory powers, but instead relies on state and local authorities. The Committee also realizes that the initial task of establishing a sanctuary has, to date, been the major focus and accomplishment of the program. As the program matures, it is expected that research and data on these unique areas will be forthcoming. NOAA, acting as the lead agency, should coordinate and encourage research activities in these sanctuaries. Programs which should be encouraged to utilize these areas for research include, but are not limited to, Sea Grant and the National Marine Fisheries Service. The Department of Interior and the Environmental Protection Agency should also be encouraged by the Department of Commerce to conduct research in these designated sanctuaries. This information will assist the coastal states in improving decisionmaking with respect to the management of our coastal resources. It should be emphasized that this program provides a useful tool to the states which they can use to enhance and improve their management program.

The Committee recognizes the continuing need and demand for representative estuaries and has consequently reauthorized this section at \$10 million for eight years. Although no specific number of sanctuaries has been recommended, the Committee suggests that it is important to obtain a representative sample of all of the different types of important estuarine systems which may necessitate more than one designation per state.

The amended section 315 maintains provisions for the acquisition of islands, or portions thereof. The Committee recognizes the importance of this provision as a necessary tool to complement the coastal management programs. With the recent understanding on the value of barrier islands as natural storm buffers, and the concern expressed by many witnesses about the destruction of these islands, the Committee expects that these provisions will continue to increase in importance. Acquisition may be most appropriate when used in conjunction with hazard mitigation and prevention efforts. Finally the Committee expects that when areas are acquired, appropriate measures will be taken to ensure adequate public access within those areas, compatible with the resource.

#### *Section 12—Congressional Veto Provisions*

Section 12 establishes a process for Congressional disapproval of final rules promulgated by the Secretary of Commerce pursuant to the Coastal Zone Management Act of 1972 (U.S.C. 1450 et seq.). This provision would take effect on the date of enactment, and expire on September 30, 1988.

Under Section 12, after 90 calendar days of continuous session, if a concurrent resolution of disapproval is not passed by both Houses, the final rule becomes effective. The Secretary is required to submit any final rule to each House of Congress, and such rule will be referred to the Committee on Merchant Marine and Fisheries in the House, and to the Committee on Commerce, Science, and Transportation in the Senate. If one of these committees does not report a concurrent resolution of disapproval after 75 calendar days of continuous session of the Congress after the referral of such resolution, then it is in order to move to discharge such committee from further consideration of the resolution. A motion to discharge in the Senate may be made by a single Member who favors the resolution, and the resolution shall be a privileged matter. Debate is limited to one hour on such a motion, and an amendment to the motion is not in order. In the House, a motion to discharge the committee may be called up only if the motion is in writing to the Clerk, and has been signed by one-fifth of the Members of the House. This motion is considered a highly privileged matter, debate is limited to one hour, and an amendment to the motion is not in order.

If a committee has reported a resolution, or has been discharged from further consideration of the resolution, it is in order to move to proceed to the consideration of the resolution. The motion is privileged in the Senate and highly privileged in the House, and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion was agreed to or disagreed to. Debate on the resolution is limited to not more than ten hours and an amendment to, or motion to recommit, the concurrent resolution is not in order.

If a final rule as promulgated by the Secretary is disapproved by the Congress under subsection (a) (2), then the Secretary may promulgate a final rule which relates to the same actions as the final rule disapproved by the Congress. This new rule must be based upon the rulemaking record, and may contain such changes as the Secretary deems appropriate. This final rule shall then be submitted to the Congress in accordance with subsection (a) (1).

Section 12 also states that Congressional inaction on, or review of, a concurrent resolution shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to the final rule.

Subsection (e) (1) requires the Comptroller General to prepare a report which examines the review of the Secretary's rules under this section by the end of Fiscal Year 1982.

Subsection (g) (1) clarifies the computation for the number of calendar days as specified in subsection (a) (2) and subsection (b).

Finally, subsection (h) (2) defines "concurrent resolution" as the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Secretary of Commerce dealing with the matter of \_\_\_\_\_, which final rule was submitted to the Congress on \_\_\_\_\_." (The blank spaces shall be filled appropriately.)

### *Section 13. Authorization of Appropriations*

Section 13 of the bill amends section 318 of the Coastal Zone Management Act of 1972 to provide for an eight year reauthorization of the major parts of the Act. The Committee has deleted, reduced and added some parts to this section, with the overall effect of no net increase in the existing level of authorization for the entire CZM program. Specifically a \$35 million authorization for section 306A has been added, the \$130 million authorization for coastal energy impact formula grants has been reduced to \$100 million, the authorization for OCS state participation grants, section 308(c) (2), has been extended at its current level of \$5 million until 1988, section 309 has been reauthorized at its current level of \$5 million, new section 308(c) (3) is authorized at \$25 million for eight years, section 315, estuarine sanctuaries and island preservation, has been reauthorized at a reduced level of \$10 million until 1988; and program administration funds have been increased to \$6 million for the next eight years. This last increase of \$1 million for program administration, recognizes the increased role of NOAA in providing technical assistance to coastal states, not a need to expand their bureaucracy.

Although the committee would have preferred to offer States more assistance, it recognizes the need to minimize any growth in Federal expenditures. However, it is hoped that an 8-year reauthorization will be a strong congressional signal to the coastal States to pursue the wise management of the coasts through this voluntary program. It is expected that coastal States will understand the need to continue to improve their coastal management efforts and the committee believes that the funds made available under this act will be sufficient to effectively implement management programs. Moreover, the committee hopes that an 8-year reauthorization will be an incentive to those non-participating States to join in this voluntary program so that all the coastal regions of the Nation may be enhanced through State coastal management programs.

### **COST OF THE LEGISLATION**

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the committee estimates the maximum cost of H.R. 6979 to be as shown in the following table:

## BUDGET AUTHORITY (AUTHORIZATION LEVEL)

	New authorizations in the bill	Reduction of authorizations in existing law	Net new authoriza- tions in the bill
Fiscal year:			
1980.....	0	0	0
1981.....	\$131,000,000	(\$30,000,000)	\$101,000,000
1982.....	131,000,000	(30,000,000)	101,000,000
1983.....	131,000,000	(30,000,000)	101,000,000
1984.....	136,000,000	(30,000,000)	106,000,000
1985.....	136,000,000	(30,000,000)	106,000,000
1986.....	136,000,000	(30,000,000)	106,000,000
1987.....	136,000,000	(30,000,000)	106,000,000
1988.....	136,000,000	(30,000,000)	106,000,000

For the purpose of estimating outlays, the committee adopts the estimates made by the Congressional Budget Office.

Section 11 of the bill repeals the existing authorization language of section 318(a) of the Coastal Zone Management Act and replaces it with new authorization language. Most of the specific authorizations replaced applied to fiscal year 1980 and earlier fiscal years. However, two of the authorizations replaced by the language of the bill apply to fiscal years covered by the bill. Section 318(a)(3) of existing law authorizes appropriation of \$130 million to implement section 308(b) of the Act for each fiscal year through the end of fiscal year 1988; H.R. 6979 reduces that authorization in existing law to \$100 million per year, thus effecting a savings of \$30 million for each fiscal year covered by the bill. Section 318(a)(4) of the existing law authorizes appropriation of \$5 million for each of fiscal years 1981, 1982, and 1983 to implement section 308(c)(2) of the act; H.R. 6979 continues that authorization at the same level through fiscal year 1988. Because this authorization is in existing law for fiscal years 1981, 1982, and 1983, it is not a part of the cost of the bill for those fiscal years.

## INFLATIONARY IMPACT STATEMENT

Pursuant to clause (2)(1)(4) of rule XI of the Rules of the House of Representatives, The committee estimates that the enactment of H.R. 6979 would have no significant inflationary impact upon prices and costs in the operation of the national economy.

## COMPLIANCE WITH RULE XI

1. With respect to the requirements of clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, no formal oversight findings or recommendations have been made by the committee on the subject of H.R. 6979. The committee conducted 3 days of oversight hearings in Washington, D.C. and six regional hearings on the implementation of the Coastal Zone Management Act in late 1979 and early 1980. The regional hearings were held in Louisiana, Michigan, Washington State, California, New Jersey, and Massachusetts. While the committee has not made any formal oversight findings as a result of those oversight hearings, H.R. 6979 was drafted in response to the information gathered at the oversight hearings. The Committee on Merchant Marine and Fisheries will continue to have oversight over the Coastal

Zone Management Act, as amended, and will exercise that responsibility diligently.

2. With respect to the requirements of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has received no report from the Committee on Government Operations on the subject of H.R. 6979.

3. With respect to the requirements of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 6979 does not contain any new budget authority or tax expenditures.

4. With respect to the requirements of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the committee has received the following estimate of the cost of H.R. 6979 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, D.C., May 14, 1980.*

HON. JOHN M. MURPHY,  
*Chairman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, 1334 Longworth House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6979, the Coastal Zone Management Improvement Act of 1980.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MAY 14, 1980.

1. Bill number: H.R. 6979.
2. Bill title: Coastal Zone Management Improvement Act of 1980.
3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, May 7, 1980.
4. Bill purpose: This bill authorizes the appropriation of \$236 million for fiscal year 1981 through fiscal year 1988 to carry out provisions of the Coastal Zone Management Act of 1972. In addition it amends that act to clarify national policy concerning the protection of the nation's coastal zones.
5. Cost estimate:

	1981	1982	1983	1984	1985
Total authorization.....	236	236	236	236	236
Less: Existing authorization.....	135	135	135	130	130
Net additional authorization.....	101	101	101	106	106
Estimated outlays.....	58	108	110	112	106

Note: The costs of this bill fall within budget function 300.



6. Basis of estimate: This bill specifically authorizes \$236 million for fiscal year 1981 through fiscal year 1988 to carry out various grant programs authorized by the Coastal Zone Management Act. For the purpose of this estimate, it is assumed that all funds authorized will be appropriated prior to the beginning of each fiscal year. Outlay estimates were based on information provided by the agency and historical spending data for ongoing programs. Of the total \$833 million net additional funds authorized by this legislation, approximately \$339 million is anticipated to be spent after fiscal year 1985. This bill reduces by \$30 million for fiscal years 1981 through 1988, the authorization level for 308(b) coastal energy impact grants. The result of this reduction, a decrease in outlays of approximately \$12 million in fiscal year 1981, \$21 million in fiscal year 1982, \$27 million in fiscal year 1983, and \$30 million in each of the following fiscal years through 1988, was included in this estimate.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 14, 1980 a CBO estimate was prepared for S. 2622, the version of this bill ordered reported by the Senate Committee on Commerce, Science and Transportation on May 8, 1980. That bill authorized appropriations of \$71 million for fiscal years 1981 through 1985.

9. Estimate prepared by: Debbie Goldberg.

10. Estimate approved by:

JAMES L. BLUM,  
*Assistant Director for Budget Analysis.*

#### DEPARTMENTAL REPORTS

The committee received departmental reports on H.R. 6979 from the Department of Commerce and the Department of the Interior. The reports read as follows:

STATEMENT OF MICHAEL GLAZER, ASSISTANT ADMINISTRATOR FOR COASTAL ZONE MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. Chairman, and Members of the Subcommittee, I am pleased to be here today to testify in support of the Administration's proposed bill to reauthorize and strengthen the Coastal Zone Management Act of 1972 (the "Act").

Last August, President Carter issued an Environmental Message in which he alerted the nation to the critical importance of preserving and managing wisely our valuable coastal resources, and called for renewal and modification of the Act to achieve these goals. In his Message the President recognized that most of the state coastal programs that have been federally approved have only recently begun implementation activities, and therefore, that reauthorization of the Act is necessary to ensure that these programs are allowed to mature and become fully integrated state and local government functions. To foster necessary coastal management improvements, the President also supported the enactment of amendments to the Act, built upon the existing, sound foundation of the national program. Since that

announcement, NOAA has worked closely with coastal states, special interest groups, members of the public, and Federal agencies to transform the President's message into a bill for consideration by the Congress.

On October 9, 1979, Robert W. Knecht, the former Assistant Administrator for Coastal Zone Management, testified before this subcommittee in detail concerning the past performance by states under the Act, and the reasons for the President's reauthorization initiative. I will not repeat that information, but instead will confine my testimony to a description of the major features of the Administration's bill. In brief, these include provisions designed to strengthen the policy section of the Act, to continue and focus more carefully Federal funding for State programs, and to emphasize program evaluation tied to results in specific areas of national concern.

## I. FINDINGS

The Administration's bill adds a new finding within Section 302 to highlight the importance of managing the coastal waters subject to state jurisdiction. State coastal zone boundaries include the waters of the territorial sea and the Great Lakes, and to date we have seen only a minimal amount of attention paid by states to the management of this critical segment of the coastal zone. This new finding will underscore the need for improved state efforts to manage water areas as well as shorelands.

## II. DECLARATION OF POLICY

One of the more critical changes to the Act being proposed by the Administration concerns the "Policy" provisions within Section 303. Presently this section lacks specific guidance regarding the objectives to be achieved by the states under the national program. To remedy this problem, the Administration bill sets out in detail the significant coastal management objectives which deserve full consideration during state implementation of coastal management programs. The objectives establish the framework against which the results of coastal management programs can be measured. Specifically, states will be directed to address the following eight issues:

(1) Protection of significant natural systems such as wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, fish and wildlife;

(2) Management of coastal development to minimize loss of life and property caused by improper development in flood-prone, storm surge and erosion prone areas, and areas of subsidence and saltwater intrusion;

(3) Priority consideration for coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation;

(4) Public access to the coast for recreation purposes;

(5) Assisting in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural and aesthetic coastal features;

(6) Coordinated and simplified procedures to ensure expedited governmental decision-making for the management of coastal resources;

(7) Continuing consultation and coordination with and adequate consideration of the views of affected Federal agencies; and,

(8) Timely and effective opportunities for public participation in coastal management decisionmaking.

NOAA intends to specify, through regulations or otherwise, the types of state program activities which are covered by these policies. In accordance with the Administration's proposed amendment to Section 306, we will then require that increasing portions of Federal grants be tied to significant improvements in these areas.

### III. ADMINISTRATIVE GRANTS

The Administration's proposed amendments to Section 306 are intended to ensure that states are provided with Federal financial assistance necessary to institutionalize state programs. At the same time the Administration's bill seeks to distribute future funds in a manner which will guarantee that states work towards achieving coastal resource management improvements which are necessary to satisfy the objectives of the Act.

First, the Administration proposes to provide states with a Federal matching share of 80% for program administration for a five-year period. The five-year period begins in 1978 for those States approved prior to or during 1978, or in later years for subsequently approved states. Following this period, declining levels of Federal support will be provided, and within three years after the five-year period Federal grants will reach a level of one-third or less of the costs of program implementation. This amendment combines a long-term commitment to support the national program with a transition element which recognizes that states will be expected to assume a larger share of the costs associated with the administration of the coastal programs.

Next, the Administration's amendment to Section 306 calls for states to devote increasing portions of Federal funds to management activities leading to "significant improvements" related to the new coastal objectives specified in Section 303. The modification will assure that attention is paid to the national coastal objectives. This targeted assistance effort will also help to assure that management problems identified during state program evaluations become the focus of special attention. In fiscal years 1979 and 1980, NOAA experimented with a similar proposal by targeting twenty percent of Federal administrative grants to selected coastal management goals. That demonstration project has proven useful in measuring the success of State programs and is the model for the Administration's proposed amendment to Section 306.

### IV. REVIEW OF PERFORMANCE

The Administration proposes to modify Section 312 of the Act to provide for a comprehensive system of state program oversight. The language of the Act presently calls for a "continuing review" of state performance. As we move into the next phase of the national pro-

gram—namely, coastal program implementation—we need a more definitive evaluation mandate that provides for a clear accounting of and response to the achievements and deficiencies which emerge from our review of State program operations.

Under the Administration's bill, during each grant period NOAA would review state performance and develop evaluation findings. These findings would assess the extent to which states have adhered to the management program and grant provisions which we approved and would identify the degree to which state program activities are addressing the coastal goals detailed in Section 303. Then relying on the amendments to Section 306, we would use the results of these evaluation findings to condition future state grants in a manner which ensures that a portion of the Federal funds is targeted to activities leading to significant improvements in problem areas.

The Administration's amended version of Section 312 maintains NOAA's authority to terminate all financial assistance to a State if it fails to adhere to and is not justified in deviating from the management program and grant conditions approved by NOAA. However, an additional and less drastic sanction is added. The Administration's amendments to Section 312 allow NOAA to penalize states that fail to achieve needed management improvements by reducing the level of financial assistance provided under the Act. Funds would be withheld or recalled commensurate with the degree to which the state failed to secure the improvements which were negotiated following the evaluation review.

In combination, the Administration's proposed amendments to Sections 303, 306 and 312 identify clearly the critical coastal management goals which warrant full consideration during program implementation, the means for supporting state activities to achieve those goals, and the oversight and sanctions that will be applied to ensure that states are held accountable for implementing improvements necessary to meet these goals.

#### V. ISLAND PRESERVATION

The Administration's bill deletes from Section 315(2) language related to shorefront access and limits the provision island preservation. The Act will continue to stress the importance of shoreline access in State programs, but will rely on other Federal programs for land acquisition. The focus on island preservation has been continued in view of the Administration's ongoing review of alternatives to protect undeveloped barrier islands, initiated by the President in his 1977 Environmental Message. The Federal Barrier Island Task Force, formed in response to the President's directive, has prepared a draft environmental impact statement which identifies section 315(2) as a tool which might be used to achieve any later determined barrier islands protection objectives involving joint acquisition with coastal states.

#### VI. BIENNIAL REPORT

The current annual reporting system called for by Section 316 of the Act has not worked effectively. Due to the difficulty in developing reports within one month following the end of each fiscal year, they have

generally been provided to the Congress well after the required submission date and often fail to include information that will be useful for Congressional oversight of the national program. To remedy this problem, the Administration's bill amends Section 316 to require a biennial report to be submitted by April 1 of the year following the reporting period. The first report will cover program administration for fiscal years 1980 and 1981.

We propose an additional amendment to Section 316 to provide the Congress with a summary of the evaluation findings called for pursuant to revised section 312 of the Act. As a result, the Congress will receive information concerning state program accomplishments and also any program termination or Federal funding reduction actions that have been imposed.

#### VII. AUTHORIZATION OF APPROPRIATIONS

I would now like to turn to the Administration's request for new authorizations.

1. First, we seek an eight year reauthorization totalling \$315 million to support continued state program implementation under Section 306 of the Act. Authorization authority for such sums not to exceed \$50 million is being requested for fiscal years 1981 and 1982, and thereafter we propose to establish a pool of funds not to exceed \$215 million to maintain Federal support at decreasing annual levels through the remainder of the eight-year period. This authorization extension is linked to the Administration's proposed amendment to Section 306 which provides states with five years of 80% Federal matching funds, followed by three years of declining Federal support.

2. Next, we seek a five-year reauthorization at an annual level not to exceed \$6 million to provide assistance to complete the estuarine sanctuaries program called for by Section 315(1) of the Act. This section provides 50% matching grants to coastal states for the purpose of establishing estuarine areas as natural field laboratories for research and study. A major goal of this program is to preserve and analyze the protected ecosystems in order to improve future management decisions related to estuaries. The program also provides for learning centers which are used by educational institutions and the public.

3. Third, the bill provides for a two-year authorization at an annual level not to exceed \$10 million to provide funds for the island preservation program authorized under Section 315(2) of the Act. Under this section, 50% matching grants may be used by states for island acquisition. As noted above in my discussion of amendments to Section 315(2), this authorization is being sought to preserve one of the Administration's options for protecting the nation's barrier islands.

4. Finally, we are seeking an eight-year authorization at an annual level not to exceed \$5 million to provide funds necessary to maintain NOAA's capability to administer the national program.

Mr. Chairman, the Administration's bill reflects, first, our belief that the Coastal Zone Management Program is a good investment for the Nation; second, our assessment that the program is basically sound and requires only refining amendments; and third, our commitment to continuation of the program. With the amendments the Adminis-

tration has proposed—particularly those affecting sections 303, 306, and 312—we can go on with the business of completing and implementing state coastal management programs and with securing the sound management results which prompted enactment of the Coastal Zone Management Act in the first instance.

That concludes my testimony. I will be happy to answer any questions the Subcommittee may have.

GENERAL COUNSEL OF THE  
U.S. DEPARTMENT OF COMMERCE,  
*Washington, D.C., April 23, 1980.*

HON. JOHN M. MURPHY,  
*Chairman, Committee on Merchant Marine and Fisheries,  
House of Representatives,  
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for comments of the Department of Commerce on H.R. 6979, a bill "To improve coastal management in the United States, and for other purposes."

The Department of Commerce strongly opposes H.R. 6979. We find many of the provisions of H.R. 6979 to be objectionable and too costly. Accordingly, we urge your support of H.R. 6956, the Administration's proposed legislation which reflects our views on the reauthorization of the Coastal Zone Management Act. Enclosed for your reference is a copy of the April 1, 1980 testimony of Michael Glazer, Assistant Administrator for Coastal Zone Management.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

WILLIAM V. SKIDMORE,  
(For Homer E. Moyer, Jr.,  
General Counsel).

Enclosure.

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., May 6, 1980.*

HON. JOHN M. MURPHY,  
*Chairman, Committee on Merchant Marine and Fisheries,  
U.S. House of Representatives,  
Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for our views on H.R. 6979, as reported by the Subcommittee on Oceanography, a bill "To improve coastal management in the United States and for other purposes."

We recommend against enactment of the bill and recommend that H.R. 6956, the Administration's bill, be enacted instead.

H.R. 6979 would reauthorize the major funding provisions of the Coastal Zone Management Act ("the Act") and would establish a new grant program, resource management improvement grants, which would provide Federal support for land acquisition and construction.

projects which meet coastal resource protection and development objectives. The authorization in H.R. 6979, is approximately twice as large as the authorization in H.R. 6956, the Administration's bill.

Our principal objection to H.R. 6979 concerns section 9(3). That section requires the Secretary of Commerce to review Federal programs to identify conflicts between Federal programs and the purposes and policies of the Act, and to notify each Federal agency of any relevant conflicts. Each Federal agency must then, to the extent consistent with the law establishing its programs, issue or amend regulations to eliminate the conflict. The Secretary of Commerce may include in the report which he must submit to the Congress recommended legislative proposals to resolve any conflicts which are not cleared up by regulatory change.

The authority for the review mandated by section 9(3) has already been provided by Presidential directive. The Office of Coastal Zone Management is currently performing this review in response to the President's Environmental Message of August 2, 1979. The rest of the provisions of section 9(3) are therefore premature. In addition, we oppose the requirement that regulations be changed as described since the provision ignores the role of public comment in agency rulemaking and establishes the Secretary of Commerce as arbiter of what constitutes a conflict between the coastal zone management program and other programs. Furthermore, when the Secretary of Commerce determines that such a conflict exists, it is not clear who would decide whether regulations are required to address the perceived conflict and who would decide whether the agency's proposed regulations are "appropriate."

The Coastal Zone Management Act provides that conflicts between federally sanctioned activities and the purposes of the Act are to be resolved by means of the Federal consistency provisions in section 307 of the Act. We believe that resolution of conflicts between Federal regulations and State CZM programs should continue to be handled through interaction between State programs and the Federal agency involved.

We believe that the declaration of policy in section 2 of H.R. 6956 is preferable to the declaration in H.R. 6979, since the Administration's bill includes "assisting in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and esthetic coastal features."

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DANIEL BEARD,  
*Acting Assistant Secretary.*

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## COASTAL ZONE MANAGEMENT ACT OF 1972, AS AMENDED

## [DECLARATION OF POLICY

[SEC. 303. The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.]

## CONGRESSIONAL DECLARATION OF POLICY

*SEC. 303. The Congress finds and declares that it is the national policy—*

*(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;*

*(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, which programs should at least provide for—*

*(A) the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,*

*(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas of subsidence and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands.*

*(C) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities re-*



lated to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in areas where such development already exists.

(D) public access to the coasts for recreation purposes,

(E) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources,

(F) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies, and

(G) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking;

(H) the promotion of activities encouraging the harvesting, utilization, development, and growth of aquatic plants and animals for commercial and recreational use, including but not limited to aquaculture, fishing, shellfish, development and harvesting, and pollution control; and

(3) to encourage the participation and cooperation of the public, state and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title.

#### DEFINITIONS

SEC. 304. For the purposes of this title—

(1) The term "coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(2) the term "coastal resource of national significance" means any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal State to be of substantial biological or natural storm protective value.

[(2)] (3) The term "coastal waters" means (A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays,

shallows, and marshes; and (B) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

[(3)] (4) The term "coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, *the Commonwealth of the Northern Mariana Islands*, and American Samoa.

[(4)] (5) The term "coastal energy activity" means any of the following activities if, and to the extent that (A) the conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and (B) any technical requirement exists which, in the determination of the Secretary, necessitates that the siting, construction, expansion, or operation of such equipment or facility be carried out in, or in close proximity to, the coastal zone of any coastal state;

- (i) Any outer Continental Shelf energy activity;
- (ii) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas;
- (iii) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deepwater port, as defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502 (10))).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be "in close proximity to" the coastal zone of any coastal state if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

[(5)] (6) The term "energy facilities" means any equipment or facility which is or will be used primarily—

(A) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

(B) for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in subparagraph (A).

The term includes, but is not limited to (i) electric generating plants; (ii) petroleum refineries and associated facilities; (iii) gasification plants; (iv) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (v) uranium enrichment or nuclear fuel processing facilities; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities, including deepwater ports, for the transfer of petroleum; (viii) pipelines and transmission facilities; and (ix) terminals which are associated with any of the foregoing.

[(6)] (7) The terms "estuary" means that part of a river or stream or other body of water having unimpaired connection with the open

sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

[(7)] (8) The term "estuarine sanctuary" means a research area which may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

[(8)] (9) The term "Fund" means the Coastal Energy Impact Fund established by section 308(h).

[(9)] (10) The term "land use" means activities which are conducted in, or on the shorelands within, the coastal zone, subject to the requirements outlined in section 307(g).

[(10)] (11) The term "local government" means any political subdivision of, or any special entity created by, any coastal state which (in whole or part) is located in, or has authority over, such state's coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or part by taxes or user fees. The term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

[(11)] (12) The term "management program" includes but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

[(12)] (13) The term "outer Continental Shelf energy activity" means any exploration for, or any development or production of, oil or natural gas from the outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a))), or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production.

[(13)] (14) The term "person" means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any state; the Federal Government; any state, regional or local government; or any entity of any such Federal, state, regional, or local government.

[(14)] (15) The term "public facilities and public services" means facilities or services which are financed, in whole or in part, by any state or political subdivision thereof, including, but not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care. Such term may also include any other facility or service so financed which the Secretary finds will support increased population.

[(15)] (16) The term "Secretary" means the Secretary of Commerce.

[(16)] (17) The term "water use" means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 307 (f).

#### ADMINISTRATIVE GRANTS

##### SEC. 306.

[(a) The Secretary may make a grant annually to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary (1) finds that such program meets the requirements of section 305(b), and (2) approves such program in accordance with subsections (c), (d), and (e).]

*(a) The Secretary may make grants to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary—*

*(1) finds that such program meets the requirements of section 305(b);*

*(2) approves such program in accordance with subsections (c), (d), and (e); and*

*(3) finds, if such program has been administered with financial assistance under this section for at least one year, that the coastal state will expend an increasing proportion of each grant received under this section (but not more than 30 per centum of the grant unless the state chooses to expend a higher percentage) on activities that will result in significant improvement being made in achieving the coastal management objectives specified in section 303(2) (A) through (H).*

*For purposes of this subsection, the costs of administering a management program includes costs incurred in the carrying out, in a manner consistent with the procedures and processes specified therein, of projects and other activities (other than those of a kind referred to in clauses (A), (B), or (C) of section 306(c) (2)) that are necessary or appropriate to the implementation of the management program.*

*(b) Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: [Provided, that no annual grant made under this section shall be in excess of \$2,000,000 for fiscal year 1975, in excess of \$2,500,000 for fiscal year 1976, nor in excess of \$3,000,000 for fiscal year 1977:] Provided [further,] that no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of the section: And provided further, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal state involved requests such a waiver.*

(i) the coastal states are encouraged to provide in their management programs for—

(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

(B) specific and enforceable standards to protect such resources.

If the Secretary determines that a coastal state has failed to make satisfactory progress in the activities described in this subsection by September 30, 1984, the Secretary shall not make any grants to such state provided under section 306A after such date.

#### RESOURCE MANAGEMENT IMPROVEMENT GRANTS

SEC. 306A. (a) For purposes of this section—

(1) The term “eligible coastal state” means a coastal state that for any fiscal year for which a grant is applied for under this section—

(A) has a management program approved under section 306; and

(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2)(A) through (H).

(2) The term “urban waterfront and port” means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

(b) The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by section 306(c)(9) because of their conservation, recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance.

(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated under section 305(b)(3) in the state’s management program as areas of particular concern.

(3) The provision of access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 305(b)(7).

(c) (1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

(2) Grants made under this section may be used for—

(A) the acquisition of fee simple and other interests in land;

(B) construction projects determined by the Secretary to be consistent with the purposes of this section, including, but not limited to, paths, walkways, roads, fences, bridges, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;

(C) in the case of grants made for objectives described in subsection (b) (2)—

(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of increasing public access and use, and

(iii) the removal of pilings where such action will provide increased recreational use of urban waterfront areas, but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

(D) engineering designs, specifications, and other appropriate reports;

(E) appropriate transportation systems, including the operating expenditures for such systems; and

(F) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

(d) (1) No grant made under this section may exceed an amount equal to 80 per centum of the cost of carrying out the purpose or project for which it was awarded.

(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

(e) With the approval of the Secretary, an eligible coastal state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

(f) In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section.

\* \* \* \* \*

#### COASTAL ENERGY IMPACT PROGRAM

SEC. 308. (a) (1) \* \* \*

(c) (3) (A) The Secretary shall make grants under this paragraph to any coastal state which the Secretary finds is being, or is likely to be, affected by coastal energy activity with respect to the transportation, transfer, or storage of coal.

(B) *Such grants shall be used by such state to plan for and prevent, reduce, or ameliorate the environmental effects of such coastal energy activity.*

(C) *The amount of any such grant shall not exceed 80 per centum of the cost of carrying out such planning, prevention, reduction or amelioration.*

(D) *Such grants shall be allocated to any such state based on rules and regulations promulgated by the Secretary which shall take into account of coal transshipped within the ports of such state; the number of on-loading, off-loading, transfer, and other necessary facilities related to coal transportation or storage built or expanded in such state; the number of miles of shoreline affected by such transportation or storage; and such other relevant factors deemed appropriate by the Secretary.*

\* \* \* \* \*

#### INTERSTATE GRANTS

##### SEC. 309.

(a) The coastal states are encouraged to give high priority—

(1) to coordinating state coastal zone planning, and programs with respect to contiguous areas of such states; and

(2) to studying, planning, and implementing unified coastal zone policies with respect to such areas.

Such coordination, study, planning, and implementation may be conducted pursuant to interstate agreements or compacts. The Secretary may make grants annually, in amounts not to exceed 90 per centum of the cost of such coordination, study, or implementation, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with sections 305 and 306.

(b) The consent of Congress is hereby given to two or more coastal states to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

[(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and]

(1) *administering coordinated coastal management planning, policies, and programs pursuant to section 306; and*

(2) *establishing executive instrumentalities or agencies which such states deem desirable for the effective implementation of such agreements or compacts.*

Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further [approved] approval by the Congress.

(c) Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to adopt a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operat-

ing, and [the Administrator of the Federal Energy Administration,] the Secretary of Energy, or their designated representatives, shall participate *ex officio* on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

[(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal states to create and maintain a temporary planning and coordinating entity to—]

*(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal management activities described in subsection (a) and may make grants to assist any group of two or more coastal states to create and maintain a temporary planning and coordinating entity to—*

(1) coordinate state [coastal zone] coastal management planning, policies, and programs with respect to contiguous areas of the states involved;

(2) study, plan, and implement unified [coastal zone] coastal management policies with respect to such areas; and

(3) establish an effective mechanism, and adopt a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

[The amount of such grants shall not exceed 90 per centum of the cost of creating and maintaining such an entity.] The Federal officials specified in subsection (c), or their designated representatives, shall participate on behalf of the Federal Government, upon the request of any such temporary planning and coordinating entity.

*(e) The Secretary may permit two or more coastal states to use a portion of the grants made to them under section 306 to carry out the purposes of this section.*

#### [RESEARCH AND TECHNICAL ASSISTANCE FOR COASTAL ZONE MANAGEMENT]

##### [SEC. 310.]

[(a) The Secretary may conduct a program of research, study, and training to support the development and implementation of management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government may assist the Secretary, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including, but not limited to, the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and the performance of any research, study, and training which does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts or other arrangements with any qualified person for the purposes of carrying out this subsection.]

[(b) The Secretary may make grants to coastal states to assist such states in carrying out research, studies, and training required with



respect to coastal zone management. The amount of any grant made under this subsection shall not exceed 80 per centum of the cost of such research, studies, and training.

[(c) (1) The Secretary shall provide for the coordination of research, studies, and training activities under this section with any other such activities that are conducted by, or subject to the authority of, the Secretary.

[(2) The Secretary shall make the results of research conducted pursuant to this section available to any interested person.]

\* \* \* \* \*

#### [REVIEW OF PERFORMANCE]

[SEC. 312.

[(a) The Secretary shall conduct a continuing review of—

[(1) the management programs of the coastal states and the performance of such states with respect to coastal zone management; and

[(2) the coastal energy impact program provided for under section 308.

[(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.]

#### REVIEW OF PERFORMANCE

*SEC. 312. (a) The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 303(2) (A) through (H), and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.*

*(b) For the purpose of making the evaluation of a coastal state's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.*

*(c) The Secretary shall reduce any financial assistance extended to any coastal state under section 306 (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (H).*

*(d) The Secretary shall withdraw approval of the management programs of any coastal state, and shall withdraw any financial assistance available to that state under this title as well as any unexpended por-*

tion of such assistance, if the Secretary determines that the coastal state is failing to adhere to, is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under section 306, and refuses to remedy the deviation.

(e) Management program approval and financial assistance may not be withdrawn under subsection (d), unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d), the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.

(f) (1) The Secretary shall carry out research on, and offer technical assistance to the coastal states with respect to, those activities, projects, and other relevant matters evaluated under this section that the Secretary considers to offer promise toward improving coastal zone management.

(2) The Secretary shall undertake a systematic program to obtain current information relating to coastal zone management and to disseminate that information, in useful form, to the coastal States.

\* \* \* \* \*

### [ADVISORY COMMITTEE]

#### [SEC. 314.]

[(a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.]

[(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.]

### ESTUARINE SANCTUARIES AND [BEACH ACCESS] ISLAND PRESERVATION

SEC. 315. The Secretary may, in accordance with this section and in accordance with such rules and regulations as the Secretary shall promulgate, make grants to any coastal state for the purposes of—

(1) acquiring, developing, or operating estuarine sanctuaries, to serve as natural field laboratories in which to study and gather

data on the natural and human processes occurring within the estuaries of the coastal zone; and

[(2) acquiring lands to provide for access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value, and for the preservation of islands.]

(2) *acquiring lands to provide for the preservation of islands, or portions thereof.*

The amount of any such grant shall not exceed 50 per centum of the cost of the project involved; except that, in the case of acquisition of any estuarine sanctuary, the Federal share of the cost thereof shall not exceed \$2,000,000.

## 【ANNUAL REPORT】

### COASTAL ZONE MANAGEMENT REPORT

#### SEC. 316.

[(a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to] (a) *The Secretary shall consult with the Congress on a regular basis concerning the administration of this title and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this title during each period of two consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to* (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (a) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved [or with respect to which grants have been terminated under this title], and a statement of the reasons for such action; (5) *a summary of evaluation findings prepared in accordance with subsection (a) of section 312, and a description of any sanctions imposed under subsection (c) and (d) of this section; [(5)]* (6) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; [(6)] (7) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; [(7)] (8) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; [(8)] (9) a summary of outstanding problems arising in the administration of this title in order of priority; [(9)]

(10) a description of the economic, environmental, and social consequences of energy activity affecting the coastal zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences; [(10)] (11) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the coastal states; [(11)] (12) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and [(12)] (13) such other information as may be appropriate.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

(c) (1) *The Secretary shall conduct a systematic review of Federal programs, other than this title, that affect coastal resources for purposes of identifying conflicts between (A) the objectives and administration of such programs and (B) the purposes and policies of this title. Not later than one year after the date of the enactment of this subsection, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this title identified as a result of such review. Each such Federal agency shall, after consultation with the Secretary and to the extent consistent with the law establishing the program, issue or amend appropriate regulations to eliminate such conflict in the administration of that program.*

(2) *The Secretary shall promptly submit a report to the Congress setting forth all notifications, together with the reasons therefor, made by him to the Federal agencies under paragraph (1). Such report may also include such recommended legislative proposals as the Secretary deems appropriate to resolve existing conflicts among Federal laws that affect the uses of coastal resources.*

\* \* \* \* \*

#### AUTHORIZATION OF APPROPRIATIONS

[SEC. 318.

[(a) There are authorized to be appropriated to the Secretary—

[(1) such sums, not to exceed \$20,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, respectively, as may be necessary for grants under section 305, to remain available until expended;

[(2) such sums, not to exceed \$50,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 306, to remain available until expended;

[(3) such sums, not to exceed \$50,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, and not to exceed \$130,000,000 per fiscal year for each of the fiscal years occurring during the period beginning on October 1, 1978,

and ending September 30, 1988, as may be necessary for grants under section 308(b);

[(4) such sums, not to exceed \$5,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, as may be necessary for grants under section 308(c)(2), to remain available until expended;

[(5) such sums, not to exceed \$5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 309, to remain available until expended;

[(6) such sums, not to exceed \$10,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for financial assistance under section 310, of which 50 per centum shall be for financial assistance under section 310(a) and 50 per centum shall be for financial assistance under section 310(b), to remain available until expended;

[(7) such sums, not to exceed \$6,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 315(1), to remain available until expended;

[(8) such sums, not to exceed \$25,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 315(2), to remain available until expended; and

[(9) such sums, not to exceed \$5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for administrative expenses incident to the administration of this title.]

*Sec. 318. (a) There are authorized to be appropriated to the Secretary—*

*(1) such sums, not to exceed \$50,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 306, to remain available until expended;*

*(2) such sums, not to exceed \$35,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 306A, to remain available until expended;*

*(3) such sums, not to exceed \$100,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 308(b);*

*(4) such sums, not to exceed \$5,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 308(c)(2), to remain available until expended;*

(5) *Such sums, not to exceed \$25,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980 and ending September 30, 1988, as may be necessary for grants under section 308(c) (3), to remain available until expended;*

(6) *such sums, not to exceed \$5,000,000 for each of the fiscal years occurring during the period October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 309, to remain available until expended;*

(7) *such sums, not to exceed \$10,000,000 for each of the fiscal years occurring during the period October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 315 to remain available until expended;*

(8) *such sums, not to exceed \$6,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for administrative expenses incident to the administration of this title.*

(b) There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed \$800,000 for the purpose of carry-in out the provisions of section 308, other than subsections (b) and (c) (2), of which not to exceed \$50,000,000 shall be for purposes of subsections (c) (1) and (d) (4) of such section.

(c) Federal funds received from other sources shall not be used to pay a coastal state's share of costs under [section 305, 306, 309, or 310.] *section 306 or 309.*

#### APPENDIX 1

THE SECRETARY OF COMMERCE,  
Washington, D.C., February 27, 1980.

Memorandum for: Richard A. Frank, Administrator, National Oceanic and Atmospheric Administration.

Subject: Issuance of regulations defining the term "directly affecting" under the Coastal Zone Management Act.

I am attaching for your review the report on efforts to mediate a dispute between the State of California and the Department of Interior. In his report, Mr. Haslam recommends that NOAA, through the issuance of regulations, define the term "directly affecting". This term is used in Section 307(c) (1) of the CZMA which provides:

"Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs."

Upon review, it is my judgment that greater clarity would serve to reduce the area of potential conflict between states and the federal government with respect to activities taking place in coastal areas.

Accordingly, I request that NOAA issue the requisite regulations defining the term "directly affecting" in a manner consistent with the statutory history and congressional intent.

PHILIP M. KLUTZNICK.

Attachments.

THE SECRETARY OF COMMERCE,  
Washington, D.C., February 27, 1980.

HON. CECIL D. ANDRUS,  
Secretary of the Interior,  
Washington, D.C.

DEAR MR. ANDRUS: This letter reports on the mediation conference between the State of California and the United State Department of the Interior (DOI) conducted by my office on October 19, 1979. The purpose of this mediation was to determine whether the DOI's Outer Continental Shelf (OCS) Lease Sale No. 48 prelease activities, which include the determination of tracts to be offered and choice of lease stipulations, directly affect the California coastal zone and therefore require the determination of consistency with the California Coastal Management Program pursuant to Section 307(c)(1) of the Coastal Zone Management Act (CZMA).

The CZMA, administered by the Secretary of Commerce, provides for the development and administration by the states of state management programs for the coastal zone. The Outer Continental Shelf Lands Act of 1953 provides that the Secretary of the Interior shall administer the Federal program of oil and gas leasing on the OCS.

Under Section 307(c)(1) of the CZMA, it is required that—

“(e)ach Federal agency conducting or supporting activities *directly affecting* the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.” (emphasis supplied.)

During the past year a serious dispute has arisen between the State of California and the DOI relating to DOI's decision that certain prelease activities associated with off-shore oil and gas exploration and drilling off the coast of California do not warrant a consistency determination under Section 307(c)(1) of the CZMA.

On June 23, 1979, former Secretary Kreps received a letter from the California Coastal Commission (Commission) noting a serious disagreement between California and the DOI and requesting that the Secretary mediate the disagreement pursuant to the National Oceanic and Atmospheric Administration's (NOAA) Federal Consistency Regulations, 15 C.F.R. Part 930, subpart G.

On July 3, 1979, Secretary Andrus agreed to participate in Secretarial Mediation regarding California's disagreement with the DOI's May 25, 1979 determination that none of the prelease activities leading to OCS Lease Sale No. 48 “directly affected” the California coastal zone—and that no consistency determination pursuant to Section 307(c)(1) of the CZMA is necessary for these activities.

Under the mediation process a public hearing was held in Los Angeles, California on September 7, 1979 and a hearing record was prepared of that hearing.

A mediation conference was held at the Department of Commerce on October 19, 1979. In attendance were representatives of the Department of Commerce Office of the Secretary, NOAA, DOI, and the Commission. During the course of this mediation conference the representatives of DOI and the Commission restated their respective positions and were not able to resolve the basic differences involved in this dispute. More specifically, the Commission and DOI were unable to reach

any compromise as to what the term "directly affect" should mean with respect to any prelease activities and were unable to agree on any definition of the term. The Commission was prepared to accept limited generic categories of prelease activities which would be subject to consistency determinations, but they maintained that no prelease activities fall within the "directly affect" standard.

The mediation process, therefore, must be construed as unsuccessful in terms of moving the Commission and DOI toward resolution of this particular dispute.

In accordance with the applicable law, I am forwarding a copy of this letter to the Office of the President and thereby indicating to all respective and interested parties that this mediation process has been unsuccessful.

Independently of this mediation process, however, I am persuaded that disagreements can be minimized and statutory purposes served if the term "directly affect" were defined with greater clarity.

Accordingly, I have requested that NOAA issue the requisite regulations defining the term "directly affect" in a manner consistent with the statutory history and Congressional intent.

During NOAA's initial rulemaking under the CZMA, the term "directly affect" was not explicitly defined in order to accord maximum flexibility to states and Federal agencies to work out a cooperative relationship on a case-by-case basis. In light of the present disagreement between California and the DOI, and problems of other states with this provision, it appears that we should reexamine the adequacy of our rules.

Sincerely,

PHILIP M. KLUTZNICK.

Enclosures.

---

THE SECRETARY OF COMMERCE,  
Washington, D.C., Feb. 27, 1980.

Mr. MICHAEL L. FISCHER,

*Executive Director, California Coastal Commission, 631 Howard Street, 4th Floor, San Francisco, Calif.*

DEAR MR. FISCHER: I am writing this letter to you to report on the mediation conference between the State of California and the United States Department of the Interior (DOI) conducted by my office on October 19, 1979. The purpose of this mediation was to determine whether the DOI's Outer Continental Shelf (OCS) Lease Sale No. 48 prelease activities, which include the determination of tracts to be offered and choice of lease stipulations, directly affect the California coastal zone and therefore require a determination of consistency with the California Coastal Management Program pursuant to Section 307(c)(1) of the Coastal Zone Management Act (CZMA).

The CZMA, administered by the Secretary of Commerce, provides for the development and administration by the States of state management programs for the coastal zone. The Outer Continental Shelf Lands Act of 1953 provides that the Secretary of the Interior shall administer the Federal program of oil and gas leasing on the OCS.



Under Section 307(c) (1) of the CZMA, it is required that—

“(e)ach Federal agency conducting or supporting activities *directly affecting* the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.” (emphasis supplied.)

During the past year a serious dispute has arisen between the State and California and the DOI relating to DOI's decision that certain prelease activities associated with on-shore oil and gas exploration and drilling off the coast of California do not warrant a consistency determination under Section 307(c) (1) of the CZMA.

On June 23, 1979, former Secretary Kreps received a letter from the California Coastal Commission (Commission) noting a serious disagreement between California and the DOI and requesting that the Secretary mediate the disagreement pursuant to the National Oceanic and Atmospheric Administration's (NOAA) Federal Consistency Regulations, 15 C.F.R. Part 930, subpart G.

On July 3, 1979, Secretary Andrus agreed to participate in Secretarial Mediation regarding California's disagreement with the DOI's May 25, 1979 determination that none of the prelease activities leading to OCS Lease Sale No. 48 “directly affected” the California coastal zone—and that no consistency determination pursuant to Section 307(c) (1) of the CZMA is necessary for these activities.

Under the mediation process a public hearing was held in Los Angeles, California on September 7, 1979 and a hearing record was prepared of that hearing.

A mediation conference was held at the Department of Commerce on October 19, 1979. In attendance were representatives of the Department of Commerce Office of the Secretary, NOAA, DOI, and the Commission. During the course of this mediation conference the representatives of DOI and the Commission restated their respective positions and were not able to resolve the basic differences involved in this dispute. More specifically, the Commission and DOI were unable to reach any compromise as to what the term “directly affect” should mean with respect to any prelease activities and were unable to agree on any definition of the term. The Commission was prepared to accept limited generic categories of prelease activities which would be subject to consistency determinations, but they maintained that no prelease activities fall within the “directly affect” standard.

The mediation process, therefore, must be construed as unsuccessful in terms of moving the Commission and DOI toward resolution of this particular dispute.

In accordance with the applicable law, I am forwarding a copy of this letter to the Office of the President and thereby indicating to all respective and interested parties that this mediation process has been unsuccessful.

Independently of this mediation process, however, I am persuaded that disagreements can be minimized and statutory purposes served if the term “directly affect” were defined with greater clarity.

Accordingly, I have requested that NOAA issue the requisite regulations defining the term “directly affect” in a manner consistent with the statutory history and Congressional intent.

During NOAA's initial rulemaking under the CZMA, the term "directly affect" was not explicitly defined in order to accord maximum flexibility to states and Federal agencies to work out a cooperative relationship on a case-by-case basis. In light of the present disagreement between California and the DOI, and problems of other states with this provision, it appears that we should reexamine the adequacy of our rules.

Sincerely,

PHILIP M. KLUTZNICK.

Enclosures.

---

GENERAL COUNSEL OF THE U.S. DEPARTMENT OF COMMERCE  
Washington, D.C., January 25, 1980.

Memorandum for the Secretary:

From: C. L. Haslam.

Subject: Mediation of a serious disagreement between the State of California and the Department of the Interior regarding the Coastal Zone Management Act and recommendation resulting from the mediation.

The Coastal Zone Management Act (CZMA), administered by the Secretary of Commerce through the National Oceanic and Atmospheric Administration (NOAA), provides a voluntary program for the development and administration by the states of state management programs for the coastal zone, with the support of Federal funds and in accordance with the terms of the Act. The Outer Continental Shelf Lands Act provides that the Secretary of the Interior shall administer the Federal program of oil and gas leasing on the outer continental shelf (OCS).

Under Section 307(c) (1) of the CZMA, it is required that:

"(e)ach Federal agency conducting or supporting activities *directly affecting* the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved statement management programs." (Emphasis supplied.)

Further, Section 307(h) (2) provides in pertinent part that:

"(i)n case of serious disagreement between any Federal agency and a coastal state . . . in the administration of a management program approved under section 1455 of this title, the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement."

During the past year such a serious disagreement has arisen between the State of California and the Department of the Interior (DOI), relating to DOI's decision that certain pre-lease activities associated with offshore oil and gas exploration and drilling off the coast of California does not warrant a consistency determination under Section 307(c) (1) of the CZMA. In summary form, the following events have occurred and recently culminated in a statutorily-recommended mediation effort. This memorandum summarizes this entire effort and contains my recommendation for resolution of this dispute.

On June 23, 1979, former Secretary Kreps received a letter from the California Coastal Commission (Commission) noting a serious disagreement between California and the DOI and requesting that the

Secretary mediate the disagreement pursuant to the NOAA's federal consistency regulations, 15 C.F.R., Part 930, Subpart G.

On July 3, 1979, Secretary Andrus agreed to participate in Secretarial Mediation regarding California's disagreement with the DOI's May 25, 1979 determination that none of the pre-lease activities leading to OCS Lease Sale No. 48 "directly affected" the California Coastal Zone—and that no consistency determination pursuant to Section 307(c)(1) of the CZMA is necessary for these activities. Secretary Kreps requested that I direct the mediation effort.

On April 22, 1979 the Department of Justice (DOJ), in response to a request by the Department of Commerce (DOC) and DOI rendered an opinion affirming that the pre-leasing activities of the Secretary of the Interior relating to the OCS which directly affect the coastal zone, are subject to the above-quoted consistency requirements of Section 307(c)(1) of the CZMA. The Federal agency itself makes the determination on the consistency of the activity.

The consistency determination called for by Section 307(c)(1) would be in addition to that required by Section 307(c)(3)(B) of the CZMA, which provides that any person who submits to the Secretary of the Interior any plan for the exploration or development of any area which has been leased under the Outer Continental Shelf Lands Act, affecting any land use or water use in the coastal zone of any state, must attach a certification that each activity complies with the state's approved coastal management program.

The decision to offer for sale leases for specific locations is the key activity that creates a right to develop those leases. The Final Notice of Sale sets the size and location of specific OCS tract areas that will be offered for lease to the oil industry. The California Coastal Commission has asserted that the issuance of the Notice of Sale is the last opportunity of the Federal and state governments to take a comprehensive look at the entire proposed lease sale, pursuant to Section 307(c)(1) of the CZMA, to determine if it is consistent with the state's approved program. Subsequent consistency reviews, pursuant to Section 307(c)(1)(B) of the CZMA, will address specific and individual exploration and development plans and will provide only a piecemeal review of the leasing activities. Accordingly, the Commission is of the opinion that these pre-lease activities directly affect the coastal zone and therefore require a consistency determination.

The Secretarial Mediation provisions of NOAA's consistency regulations provide that if the parties agree to mediate, the Secretary of Commerce must appoint a hearing officer who must schedule a public hearing in the local area concerned. A hearing was held in Los Angeles, California on September 7, 1979. The witnesses at the hearing included representatives from the California Coastal Commission, the Natural Resources Defense Council, the American Petroleum Institute, Western Oil and Gas Association, the numerous local and state agencies testifying in the support of the Commission's position. DOI did not make a presentation or actively participate in the hearing other than to submit a statement from one of its local field Solicitors that written questions submitted to DOI concerning the disagreement would receive written responses.

The Secretarial Mediation provisions of NOAA's consistency regulations further provide that upon receipt of the hearing record the Secretary must schedule a mediation conference, to be attended by representatives of the Office of the Secretary, the disagreeing Federal and state agencies and any other interested party whose participation is deemed necessary by the Secretary. On September 24, the transcript and written information offered at the public hearing were forwarded to the federal and state agencies involved.

On October 19, 1979, DOI provided the Commission and DOC with a statement in support of its conclusion that none of the pre-lease activities leading to OCS Lease Sale No. 48 directly affect the California coastal zone.

A mediation conference was held at the DOC on October 19, 1979. In attendance were representatives of the DOC Office of the Secretary, NOAA, DOI and the Commission. During the course of this mediation conference the representatives of DOI and the Commission restated their respective positions and were not able to resolve the basic differences involved in this dispute.

More specifically, the Commission and DOI were unable to reach any compromise as to what the term "directly affect" should mean with respect to any pre-lease activities and were unable to agree on any definition of the term. The Commission was prepared to accept limited generic categories of pre-lease activities which would be subject to consistency determinations, but DOI maintained that a very restricted definition determined which pre-lease activities fall within the "directly affect" standard, and that the agency preferred to apply this definition itself on a case-by-case basis.

The mediation process, therefore, must be construed as unsuccessful in terms of moving the Commission and DOI toward resolution of this particular dispute.

In my opinion, the law contemplates that pre-lease sale activities as in California be subject to a consistency determination, and moreover, that this would not impose an undue burden in a situation such as this one. The CZM program further contemplates that state plans be accorded substantial respect where consistency is at issue. DOI has, however, adopted an extremely narrow and restrictive definition of "directly affect".

In NOAA's present Federal consistency rules under the CZMA, the term "directly affecting" is not explicitly defined in order to accord maximum flexibility to states and federal agencies to work out a cooperative relationship on a case-by-case basis. In light of the present disagreement between California and the Department of the Interior, and problems of other states with this provision, it appears that we should reexamine the adequacy of our rules.

It is my judgment, based on a review of the applicable law, that the public interest would be best served through a careful definition of the term "directly affecting".

Accordingly, I recommend that you direct the Administrator of NOAA to promulgate the requisite regulations which will define the term "directly affecting" as that term is used in the CZMA.